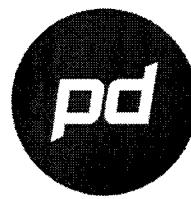


EXHIBIT 2



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Transcript of William D. Carmack

Date: March 12, 2019

Case: Carmack -v- Commonwealth

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Transcript of William D. Carmack

1 (1 to 4)

Conducted on March 12, 2019

1	IN THE UNITED STATES DISTRICT COURT	1
2	FOR THE WESTERN DISTRICT OF VIRGINIA	
3	ABINGDON DIVISION	
4	-----	
5	WILLIAM D. CARMACK,)	
6)	
7	Plaintiff)	
8	-vs-) Case No. 1:18-CV-00031	
9)	
10	COMMONWEALTH OF VIRGINIA,)	
11	et al)	
12)	
13	Defendants)	
14	-----	
15	DEPOSITION OF WILLIAM D. CARMACK	
16	DATE: March 12, 2019	
17	TIME: 10:00 a.m.	
18	LOCATION: Law Office of Terry N. Grimes, PC	
19	Franklin Commons	
20	320 Elm Avenue, SW	
21	Roanoke, Virginia 24016	
22	MaryTheresa Ferris, RPR Registered Professional Reporter #20149	
2	APPEARANCES	2
3	FOR THE PLAINTIFF:	
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5	Franklin Commons	
6	320 Elm Avenue, SW	
7	Roanoke, Virginia 24016	
8	Phone: (540) 982-3711	
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11	BY: TERRY N. GRIMES, ESQ.	
12	Email: bhaddox@terryngrimes.com	
13	BY: BRITTANY M. HADDOX, ESQ.	
14	FOR THE DEFENDANT:	
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17	Richmond, Virginia 23219	
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19	Email: rhardy@oag.state.va.us	
20	BY: RYAN S. HARDY, ESQ.	
21	Email: ekincerjr@oag.state.va.us	
22	BY: E. LEWIS KINCER, JR., ESQ.	
2	ALSO PRESENT:	
3	David D. Matlock	
4	-----	
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Transcript of William D. Carmack

2 (5 to 8)

Conducted on March 12, 2019

	5		7
1 EXHIBITS		1 sure the court reporter understands your response,	
2 EXHIBIT NO.	PAGE	2 you know, whether it's yes, no, I don't know, instead	
3 Exhibit 103 January 9, 2018 letter to	235	3 of uh-huh or huh-uh or, just so she can get it on the	
4 William D. Carmack from		4 record.	
5 Charles W. Carrico, Sr.		5 If I ask you any questions that are	
6 Exhibit 104 E-mail from Deborah Bourne	240	6 unclear to you or that you don't understand, stop me,	
7 to Duffy Carmack dated		7 tell me the question, you don't understand it, it	
8 November 25, 2015 re: Greetings		8 makes no sense, and I will repeat it or rephrase it	
9 Exhibit 105 E-mail from Betty Adams to	260	9 until we are on the same page. All right?	
10 Duffy Carmack dated September		10 A Okay.	
11 29, 2015 re: Thinking about you!		11 Q If you answer a question, I will assume	
12 Exhibit 106 E-mail from Duffy Carmack to	263	12 you understood it. All right?	
13 Alicia Young dated July 14, 2016		13 A Fine.	
14 re: Payroll to join UVAFinance		14 Q And I will ask you, are you feeling all	
15 Exhibit 107 July 10, 2018 letter to Mr. Evan	266	15 right to give a deposition today?	
16 Feinman from Michael C. Westfall,		16 A I am.	
17 CPA, State Inspector General		17 Q And you have no health conditions that	
18 Exhibit 108 E-mail from Duffy Carmack dated	280	18 would prohibit you from recollecting and giving	
19 November 25, 2013 re: deep throat		19 testimony?	
20 hosting		20 A None.	
21 Exhibit 109 E-mail from Duffy Carmack dated	283	21 Q Okay. And you're undergoing no	
22 November 25, 2013 re: deep throat		22 personal, family crisis or upsets that would affect	
	6		8
1 WILLIAM D. CARMACK,		1 you here today?	
2 after having been duly sworn by Mary Theresa Ferris,		2 A None.	
3 RPR, Notary Public in the Commonwealth of Virginia,		3 Q Okay. State your full name.	
4 to tell the truth, the whole truth and nothing but		4 A William Duffy Carmack, Jr.	
5 the truth, testified as follows:		5 Q And how old are you?	
6		6 A 63.	
7 (9:57 a.m.)		7 Q And single or married?	
8		8 A Married.	
9 EXAMINATION		9 Q How long have you been married?	
10		10 A 33 years.	
11 BY MR. KINCER:		11 Q First marriage?	
12 Q Good morning, Mr. Carmack.		12 A Yes.	
13 A Good morning.		13 Q Any children?	
14 Q I'm Lewis Kincer. I have seen you in		14 A I have a stepdaughter.	
15 several other depositions. You have seen me. You		15 Q And so your wife was married before?	
16 have heard your attorney give numerous deponents		16 A Correct.	
17 advice of how to give a deposition and what we are		17 Q What is your wife's name?	
18 doing here.		18 A Rebecca.	
19 A Yes.		19 Q Does she work outside the home?	
20 Q I won't repeat everything that		20 A She does not.	
21 Mr. Grimes has previously said. Most important thing		21 Q And what's your stepdaughter's name?	
22 is give a verbal response instead of nodding. Make		22 A Elizabeth Minnick.	

Transcript of William D. Carmack

3 (9 to 12)

Conducted on March 12, 2019

	9		11
1	Q	Is she in the Abingdon area?	
2	A	She is.	
3	Q	And what does she do?	
4	A	She works for a company called Hapco,	
5	H-a-p-c-o.		
6	Q	What is Hapco?	
7	A	It is a company that manufactures	
8	aluminum poles for lighting and flags.		
9	Q	Is she married?	
10	A	She is.	
11	Q	What does her husband do?	
12	A	He is a surveyor.	
13	Q	And his name?	
14	A	Dan Pettingil, P-e-t-t-i-n-g-i-l.	
15	Q	Do they have any adult children?	
16	A	They do not.	
17	Q	Okay. Where are you currently	
18		employed?	
19	A	I am currently self-employed with a	
20	company entitled Financial Health Solutions.		
21	Q	Okay. What does Financial Health	
22	Solutions do?		
	10		
1	A	It is a consulting company that works	
2	with medical management of physician practices, and		
3	it also does estate advisement and settlement.		
4	Q	What sort of estate advisement?	
5	A	When someone passes away, if there is	
6	not an executor, I am appointed by the Court for		
7	that. Or I am named as executor in various wills or		
8	administrators or some fiduciary role; it varies from		
9	account to account.		
10	Q	But you don't purport to give legal	
11	advice?		
12	A	No.	
13	Q	All right. How long have you been	
14	involved with Financial Health Solutions?		
15	A	I started Financial Health Solutions	
16	last January of 2018.		
17	Q	Did you start it or did you convert a	
18	previous corporation?		
19	A	I converted a previous corporation.	
20	Q	And tell me about that.	
21	A	In 2008 I set up a corporation called	
22	Carmack Health Management. And at that time I served		
	12		
1		there a Dr. McGarry?	
2	A	Yes.	
3	Q	Who's he?	
4	A	Dr. Timothy McGarry is an orthopedic	
5	surgeon in the Abingdon area.		
6	Q	Okay. Is he still in practice?	
7	A	He is.	
8	Q	Was he part of this group?	
9	A	He is one of ten members.	
10	Q	Okay. Since you set it up in 2008,	
11		have any of the members changed, of the professional	
12		staff, professional members of the group?	
13	A	Not yet, no.	
14	Q	Okay. From 2008, your Carmack Health	
15	Management, was that an LLC?		
16	A	It was.	
17	Q	And were you the sole owner?	
18	A	Yes, indeed. Yes, I was.	
19	Q	Okay. And did you work out of your	
20	home or do you have an -- do you have an --		
21	A	Yes, worked out of the home.	
22	Q	Okay. And let's say the calendar year	

Transcript of William D. Carmack

4 (13 to 16)

Conducted on March 12, 2019

	13		15
1	2008, how much time per, whether you want to do it	1	oversaw the business aspect of the real estate, the
2	day, week or month, did that occupy?	2	leasing of the real estate and the equipment.
3	A In 2008?	3	Q The leasing to the hospital?
4	Q Yes, sir.	4	A Correct.
5	A During the formative years of building	5	Q Is it Johnson Memorial?
6	the building, I would say it occupied 40 percent of	6	A Johnston.
7	my time.	7	Q Johnston Memorial?
8	Q Okay. How long did you continue to	8	A Uh-huh.
9	actively participate in Carmack Health Management?	9	Q Okay. That's there in Abingdon?
10	A I continued to participate in Carmack	10	A Correct.
11	Health Management through December 31st. Well,	11	Q Has either Carmack Health Management or
12	actually January, probably 15 of '18 until I changed	12	its successor, Financial Health Solutions, ever had
13	the name of the company.	13	any other employees except you?
14	Q January 15th of 2018?	14	A No.
15	A Yes.	15	Q Has your work with Financial Health
16	Q And then that was the conversion with	16	Solutions, has that been your sole source of
17	Financial Health Solutions?	17	employment since we, being the Southwest Virginia
18	A That's correct.	18	Higher Ed Center --
19	Q Okay. And what is Financial Health	19	A It has.
20	Solutions?	20	Q And unless either you or I qualify
21	A Financial Health Solutions is a	21	somewhere else, let's say whenever we are talking
22	consulting firm that offers physician practice	22	about that entity, I'm just going to say Center.
	14		16
1	management, surgical center management, to any	1	A Okay.
2	surgical or dental or medical specialty of their	2	Q Unless we are talking about the
3	offices. And it also has a division that does	3	ambulatory surgical center, and we will differentiate
4	administrative estate settlement.	4	that.
5	Q That's what you mentioned earlier?	5	A Okay.
6	A Yes.	6	Q So during the -- well, I think it would
7	Q All right. So what is the substantive	7	make more sense. Tell me starting, starting with
8	change between what Carmack Health Management was	8	your -- you're from Abingdon, correct?
9	doing from 2008 through 2018 and what Financial	9	A That's correct.
10	Health Solutions is doing now?	10	Q Went to high school in Abingdon?
11	A The substantive change in Carmack	11	A I did.
12	Health Management took place in 2010. The first two	12	Q Graduated from Emory and Henry?
13	years that I worked for them was around 40 percent to	13	A Correct.
14	build the building, to equip the building and to hire	14	Q What year?
15	clinical operations managers of the building that's	15	A 1978.
16	there every day running the facility.	16	Q Okay. And what years did you attend?
17	My role after that became simply the	17	A I graduated from high school in '74. I
18	administrator for the physicians, owners of the real	18	attended the Virginia Highlands Community College
19	estate, and the equipment, because they had leases	19	until '76.
20	back to the local hospital for the real estate and	20	Q Okay.
21	the equipment. So the physicians, in essence, became	21	A And Emory, finished in '78.
22	2 a landlord, and the hospital was the tenant. And I	22	Q Okay. And you got an associate's

Transcript of William D. Carmack

5 (17 to 20)

Conducted on March 12, 2019

	17		19
1 degree from --		1 workers in southwest Virginia. So I administered	
2 A No. I simply used credits to		2 those funds from the Department of Labor through VEC	
3 transfer.		3 to the local industry. It's called a contract	
4 Q Okay. Credits to transfer. So your		4 officer, was the title of the position.	
5 degree from Emory and Henry was in what?		5 Q And that was from 1980 to when?	
6 A Bachelor of Arts in education.		6 A Probably '82.	
7 Q And when you got your BA in education,		7 Q Okay. And that was CETA money, wasn't	
8 you taught?		8 it?	
9 A I taught seventh grade math.		9 A Yes, it was.	
10 Q In Washington County?		10 Q C-E-T-A Comprehensive Education and	
11 A In Washington County.		11 Training Act.	
12 Q What school?		12 A I'm impressed.	
13 A Greendale Elementary.		13 Q All right. Then that job, that program	
14 Q How many years did you do that?		14 ultimately ended?	
15 A Two-and-one-half.		15 A It ultimately ended, yes. I left prior	
16 Q And would that have been from '78 until		16 to its ending.	
17 mid-eighty?		17 Q Okay. And you left VEC work for	
18 A I actually began teaching in December		18 what?	
19 of '77 before I graduated. The school superintendent		19 A I was offered a position by the local	
20 came to me. He knew that I lacked two courses		20 Washington County Chamber of Commerce Board of	
21 finishing at Emory. He offered me a position at		21 Directors as the Executive Director of the Chamber.	
22 Greendale. They wanted a male teacher, and if I		22 Q Executive Director pretty much what it	
	18		20
1 could work out those two courses on independent		1 sounds, running the programs, setting --	
2 study, they gave me the job.		2 A At that time the Chamber had tourism as	
3 I worked it out. So I went to work in		3 one of its arms. At that time they had a contract	
4 December of that year. And I left, would have been		4 to do all of the marketing for the Virginia Highlands	
5 in '80 sometime.		5 Festival, which was a big arts and crafts festival	
6 Q Okay. And your reason for leaving?		6 each year. We did all of the publications,	
7 A I was offered a job with the State of		7 brochures, work for that.	
8 Virginia. At that time it was the Virginia		8 Also, at that time we worked closely	
9 Employment Commission Regional Office.		9 with the Virginia Department of Economic Development	
10 Q Okay. So you actually began teaching,		10 on recruitment of potential new industry into the	
11 you became a full-time teacher without a		11 area.	
12 certificate?		12 Q And was there a pay increase between	
13 A That is correct.		13 the VEC to when you went to the Chamber?	
14 Q Okay. And did you obtain a --		14 A There was a pay increase with every	
15 A I did.		15 job.	
16 Q All right. You obtained a certificate,		16 Q Okay. Was that the primary reason for	
17 you taught. And the VEC job, what did that		17 leaving every job?	
18 involve?		18 A Yes.	
19 A It was called a contract officer. It		19 Q We will go through that. And I have	
20 was a regional job for the 17 counties in southwest		20 got your resume, but I just want to see what you	
21 Virginia. At that time Virginia Employment		21 remember.	
22 Commission had federal grants for training industrial		22 A It was professional growth and	

Transcript of William D. Carmack

6 (21 to 24)

Conducted on March 12, 2019

<p>1 financial benefit.</p> <p>2 Q All right. Chamber of Commerce, how</p> <p>3 long were you there?</p> <p>4 A I'm going to say two-and-a-half</p> <p>5 years.</p> <p>6 Q And you left there because --</p> <p>7 A I was offered a position with what was</p> <p>8 then Virginia National Bank. It has merged into Bank</p> <p>9 of America. Virginia National Bank had a regional</p> <p>10 office in Abingdon, and I was offered a position in</p> <p>11 their management training program.</p> <p>12 Q What did that consist of?</p> <p>13 A Consisted of a year of training in</p> <p>14 between Norfolk and Charlottesville. It was a very</p> <p>15 highly competitive program to enter. You took a</p> <p>16 barrage of tests. I was fortunate enough to get in.</p> <p>17 That consisted of working from beginning as a teller</p> <p>18 and working your way up through every position in the</p> <p>19 retail side of the bank, which took 12 months.</p> <p>20 At that time you were placed in a</p> <p>21 branch as either an assistant management or manager,</p> <p>22 and then you were required to attend -- again, the</p>	<p>21</p> <p>1 long were you at VNB?</p> <p>2 A 12 years.</p> <p>3 Q At the same branch?</p> <p>4 A No. My first position was branch</p> <p>5 manager in Bristol, Virginia. And they chose to open</p> <p>6 a new branch in Bristol, and so I opened that branch</p> <p>7 and moved to that location. Approximately four years</p> <p>8 later I was transferred to the Abingdon office, which</p> <p>9 at that time was one of the larger offices in the</p> <p>10 state with loans, deposits and services. And I was</p> <p>11 the senior vice-president and manager there.</p> <p>12 Q Okay. And how many employees -- let's</p> <p>13 go to the Abingdon bank. How many employees directly</p> <p>14 reported to you?</p> <p>15 A If my memory is correct, somewhere</p> <p>16 between 30 and 35.</p> <p>17 Q Okay. And so you were in Bristol and</p> <p>18 you were in Abingdon for your bank job?</p> <p>19 A Yes. I was in Bristol four years and</p> <p>20 Abingdon for the balance.</p> <p>21 Q Okay. Okay. But through this point in</p> <p>22 time, through the time of your, near the end of your</p>
<p>22</p> <p>1 names have changed over the years, but at that time</p> <p>2 it was called Virginia School of Bank Management, the</p> <p>3 Darden School at UVA, for two years.</p> <p>4 Q Right, as a --</p> <p>5 A Certificate program.</p> <p>6 Q Right. You were not on grounds?</p> <p>7 A Yes. In summer we were there two</p> <p>8 weeks.</p> <p>9 Q Okay. A two-week program each summer,</p> <p>10 but then it was, what, was it long distance?</p> <p>11 A It was long distance. You had</p> <p>12 assignments throughout the year with time lines to</p> <p>13 turn in.</p> <p>14 Q Okay. And then at the completion of</p> <p>15 that program, you received a certificate?</p> <p>16 A Correct.</p> <p>17 Q From the banking association?</p> <p>18 A Yes.</p> <p>19 Q Not from Colgate Darden?</p> <p>20 A Correct.</p> <p>21 Q And so you successfully completed the</p> <p>22 training program. You got your certificate. How</p>	<p>24</p> <p>1 12-year period at VNB/BOA -- I don't know if they had</p> <p>2 been bought out yet -- had they been bought out by</p> <p>3 the time you left?</p> <p>4 A This was in the merger period. Bank</p> <p>5 mergers had just begun. And so I was involved with</p> <p>6 the initial merger, which was Sovereign, S-o-v-r-i-n,</p> <p>7 (sic) Bank. I became part of the merger team that</p> <p>8 traveled around to various other smaller banks that</p> <p>9 were bought.</p> <p>10 We then became Nations Bank. And then</p> <p>11 following -- I left during Nations and then it became</p> <p>12 Bank of America.</p> <p>13 Q And you left there for what reason?</p> <p>14 A I progressed as far as possible in the</p> <p>15 professional realm with Nations in a rural market,</p> <p>16 and they offered me a position to go to Charlotte.</p> <p>17 At that time I was just not in a position personally,</p> <p>18 with family members, my wife's business at that time</p> <p>19 and her family, nor did I have the desire to leave</p> <p>20 Abingdon. So I began to seek employment elsewhere</p> <p>21 while I was still employed. I began to look around</p> <p>22 for options to stay in that area.</p>

Transcript of William D. Carmack

7 (25 to 28)

Conducted on March 12, 2019

	25		27
1	Q	You weren't being eliminated --	1 A Okay. What was the VEC leave date?
2	A	Oh, no.	2 Q Was that '82?
3	Q	-- during any of these mergers?	3 A '82. Okay. So Chamber, three, four,
4	A	No, I was asked to move.	4 five. Virginia National, five, so '85, '95, '96,
5	Q	All right. What was your wife's	5 '97. So would have been around '97 when I went to
6		business?	6 the hospital.
7	A	My wife's family had been in the tire	7 Q Okay. And what did you do for them?
8		business. The name of the company was Roberts Tire	8 A Initially I established what was called
9		and Recapping. Her father and seven brothers all had	9 a physician hospital organization. And the purpose
10		10 stores throughout southwest Virginia for over 40	10 of that entity was to negotiate payor contracts with
11		11 years. And although not a very likely profession for	11 all insurance companies. In approximately a
12		12 a woman, she was one of three daughters, and so she	12 year-and-a-half after beginning, the chief operating
13		13 worked with her father in the tire business until he	13 officer resigned, and I assumed the duties of that
14		14 retired and it was sold.	14 individual.
15	Q	Okay. On the business side or on the	15 And that was oversight for the various
16		16 tire side?	16 programs of the Emergency Department, contracts with
17	A	On the business side.	17 insurance companies, risk management, case
18	Q	All right. Where did you go after you	18 management, Social Services for the 25 departments
19		19 left VNB?	19 that reported to me.
20	A	I was approached by then Johnston	20 Q And were you an employee?
21		21 Memorial Hospital's administrator, whose name was	21 A I was an employee.
22		22 Clark Beil, that's B-e-i-l, and Clark -- this was in	22 Q Have anyone report to you in that
	26		28
1		the, I'm going to say the Clinton days of managed	1 job?
2		care, when the term was being thrown about loosely.	2 A Yes. I had approximately 50 people
3		3 And Clark said that he would like for me to come to	3 report to me in that job.
4		4 the hospital to work in a position, newly created	4 Q What type of personnel?
5		5 position, called director of contracts and managed	5 A I had MDs and mid-level practitioners
6		6 care.	6 in the Emergency Department. And the remainder were
7		And his interest in me was because the	7 either social workers or registered nurses. And
8		8 physicians, most of which had been my customers,	8 there were probably five clerical employees in that
9		9 already had a trust level for me. And it was going	9 staff.
10		10 to require a real stretch for them to get involved in	10 Q But, again, you mentioned quite a few
11		11 managed care. So he offered me a job in	11 medical professionals, the nurses, doctors, etcetera,
12		12 administration and I accepted that.	12 you weren't managing their medical practice?
13	Q	What year did you accept that?	13 A Not the medical side. I managed the
14	A	Would have been in, I think in the	14 hiring and recruitment for vacancies in those
15		15 early nineties.	15 departments. I managed schedules. I managed issues
16	Q	And you would have left the bank	16 that came about involving risk or involving
17		17 when?	17 malpractice or risk management at the administrative
18	A	I was at the bank 12 years from	18 level, not clinical.
19		19 whatever our Chamber date was, and then I went	19 Q And how long did you stay there?
20		20 straight to the hospital.	20 A Oh, I was at the hospital six years.
21	Q	Okay. Actually, I don't think I	21 Q And your reason for leaving?
22		22 had a -- I had a VEC leave date.	22 A A local ophthalmologist approached me,

Transcript of William D. Carmack

8 (29 to 32)

Conducted on March 12, 2019

	29		31
1	and there were three small practices of ophthalmology	1	40 hours -- I'm sorry -- under 40 hours that I had
2	serving southwest Virginia. And they had agreed to	2	used working for the surgery center. I reimbursed
3	merge and become what's known as Eye Physicians of	3	them for my time so it came up to 40 hours a week.
4	Southwest Virginia. And they wanted to hire an	4	So there was no financial loss to the Eye Physicians
5	administrator to do their merger and to manage their	5	at that time.
6	practices at various locations.	6	Q They insisted on that, since you were
7	Also, one goal was to set up optical	7	doing work elsewhere?
8	shops and get into the retail business. So I went to	8	A Yes. Since basically 40 percent of my
9	work for them as their CEO.	9	time was spent benefiting them indirectly, I felt
10	Q And were you a salaried employee?	10	that was fair and they felt that was fair. But they
11	A I was a salaried employee.	11	continued my benefits on a full-time basis since I
12	Q Did you have any ownership interest in	12	reimbursed them. Once the surgery center was built,
13	the business?	13	my time spent with Eye Physicians returned to
14	A I did not.	14	basically 99 percent.
15	Q And did optical shops get set up?	15	Q And the center was built when
16	A We established three optical shops.	16	approximately?
17	Q And I'm going to show you, before we	17	A 2008.
18	finish and introduce it, your resume. I'm just going	18	Q Okay. And that's about, that is the
19	19 through and want to know what you remember. But I	19	time that Carmack Health Management was founded?
20	20 have you working at Johnston Memorial Hospital from	20	A That is correct. Because for liability
21	21 '95 to '99.	21	purposes I wanted that money to flow through an LLC,
22	A Could be true.	22	in the event there was some bizarre incident in
	30		32
1	Q All right. So that would be four	1	building the building or it would fall down, harm
2	years?	2	someone, that I would have a protection of an LLC
3	A Close enough. I can't remember the	3	Over my personal assets.
4	exact dates.	4	Q And you left -- what's your next job?
5	Q I'm going to let you see that. And	5	A I went to Southwest Virginia Higher
6	then you went to Eye Physicians of Southwest	6	Education Center as chief financial officer.
7	Virginia; that's what we have been talking about.	7	Q And what year was that?
8	A Following the hospital, yes, sir.	8	A 2005.
9	Q And how long were you there?	9	Q Who hired you?
10	A Approximately ten years.	10	A Dr. Rachel Fowlkes was the founding
11	Q Was that your full-time employment	11	director of the Higher Ed Center concept, and she had
12	12 during this ten years?	12	been the original director at the Center. Dr.
13	A It was my full-time employment. The	13	Fowlkes approached me several years earlier about
14	14 last two years that I worked for them overlapped with	14	coming to work there and I declined. She offered me
15	15 the building of the surgery center, ambulatory	15	a job based on my experience in health care, and I
16	16 surgery center. The ophthalmologists that were my	16	was interviewed by a panel and selected based on my
17	17 boss in that group were also going to be owners and	17	experience.
18	18 practitioners in the surgery center. So they agreed	18	At that point in time with the Center
19	19 to allow me to work, continue my full-time work at	19	there was a great deal, there were funds from the
20	20 Eye Physicians to do the work that was necessary to	20	Virginia Tobacco Commission to build a medical school
21	21 get the surgery center opened.	21	in southwest Virginia and on the campus of the Higher
22	22 But I paid them back for the hours over	22	Education Center. And they were interested in my

Transcript of William D. Carmack

9 (33 to 36)

Conducted on March 12, 2019

	33		35
1	background and experience and connections in health	1	know Ms. Fowlkes when she extended an offer to you?
2	care to assist in that if it came true.	2	A I have known Ms. Fowlkes personally for
3	Otherwise, Dr. Fowlkes was interested	3	30 years, and her family.
4	in expanding health care programs at the Center at	4	Q Okay. How so?
5	the bachelor's level, and so that's why I was	5	A Members of the same church.
6	hired.	6	Q Presbyterian?
7	Q All right. And your, the title of your	7	A Yes. Serving on boards together in the
8	position that you were hired for in 2005 was?	8	community over the years.
9	A Chief financial officer.	9	Q What's the name of Presbyterian
10	Q All right. Had that been the first	10	church?
11	time that such a position existed at the Center?	11	A Sinking Spring Presbyterian.
12	A Yes, that is correct.	12	Q You've been a member of that all your
13	Q And what was it called before it was a	13	life?
14	chief financial officer; do you know?	14	A Since 27.
15	A I don't know the exact name of that	15	Q Since when?
16	position.	16	A Since I was 27.
17	Q So you were the first CFO at the	17	Q All right. And are you still friends
18	Center?	18	with Ms. Fowlkes?
19	A Yes.	19	A Yes.
20	Q Named as such?	20	Q You and Ms. Fowlkes are on good terms
21	A Correct.	21	now?
22	Q Okay. And Dr. Fowlkes had asked you	22	A Yes, uh-huh.
	34		36
1	even a couple years earlier to come earlier to come	1	Q Who did you directly report to when you
2	on board?	2	were hired as CFO at the Center?
3	A She had.	3	A Dr. Fowlkes.
4	Q And you declined because of why?	4	Q And how many people directly reported
5	A I just wasn't interested in what she	5	to you as CFO when you started?
6	had to offer. The job wasn't challenging to me,	6	A Approximately seven.
7	didn't offer any type of professional opportunity.	7	Q Okay. And what type of positions?
8	The pay was not satisfactory with me. I just didn't	8	A All of the business office reported to
9	have a good feeling about it, so I declined it.	9	me, which included the employees paid by the Tobacco
10	Q Okay. Did all of those things improve	10	Commission that administered the Tobacco Scholarship
11	11 in two years?	11	Fund. They were part of the business office. Also,
12	A Yes, in the offer that was made to me	12	12 the folks in the business department, the employee
13	13 and the job description that was presented to me, it	13	13 who worked for the Foundation.
14	14 did.	14	At various times I would, for specific
15	Q And do you recall -- and I have got	15	periods of time, I would have oversight into
16	16 your resume and, again, I'm going to give you this to	16	16 maintenance. The maintenance director was involved
17	17 look at a copy if we need to refer to it.	17	17 in a motorcycle accident and lost a leg and he was
18	What was your starting salary at the	18	18 out of work for almost a year. So the employees in
19	Center?	19	19 that department reported to me on an interim basis.
20	A I don't remember the exact number. It	20	Q All right. The Tobacco Commission, at
21	21 was somewhere in the approximate \$105,000 range.	21	the time you started as CFO, what was the role or
22	Q How did you -- strike that. Did you	22	relationship of the Commission with the Higher

Transcript of William D. Carmack

10 (37 to 40)

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<p>1 Education Center? This gets confusing.</p> <p>2 A Okay. The Tobacco Commission was 3 created from a class action lawsuit, tobacco causing 4 cancer, sometime eons ago before my interest in it, 5 and the settlement was placed into a fund. The State 6 of Virginia elected instead of putting it as part of 7 the general fund monies, to set it aside and to let 8 the interest of that money benefit the two tobacco 9 regions of the state, that being southside Virginia 10 and southwest Virginia.</p> <p>11 They appointed a Commission that was 12 approximately 25 members. Southside Virginia had 13 more members than southwest; I think it was based on 14 the percentage of tobacco growers in the area. They 15 set up various committees, for example, economic 16 development, education, are examples. They set up a 17 scholarship program. There were probably ten 18 different committees. And those committees all had 19 pools of money, millions of dollars of money.</p> <p>20 And parties in southwest Virginia or 21 southside Virginia could make application for grants 22 for these funds. And the intent was to provide</p>	<p>37</p> <p>1 two funding cycles a year, and so for that work the 2 Center was paid a, through a grant, administrative 3 dollars for administering the scholarship program.</p> <p>4 In addition to that, Dr. Fowlkes 5 probably received more tobacco grant dollars than any 6 other institution in the state. We, at one time, had 7 looked at that number, and counting the scholarship 8 dollars had received over \$40,000,000 in tobacco 9 grants of some type.</p> <p>10 Q Over what period of time?</p> <p>11 A Well, really since the beginning of the 12 Tobacco Commission. And, I'm sorry, I don't know the 13 beginning date.</p> <p>14 Q Okay.</p> <p>15 A It would have probably been over a ten 16 to 15 year period of time.</p> <p>17 Q For what kind of programs? That's a 18 lot of money.</p> <p>19 A Yes. She was able to get grants for 20 various colleges to bring programs there. For 21 example, Virginia Commonwealth University, there was 22 a need for nurse anesthesiologists in our market;</p>
<p>38</p> <p>1 economic development and jobs for the replacement of 2 the loss of tobacco funds in these markets.</p> <p>3 Dr. Fowlkes had been very successful in 4 obtaining money for various types of educational and 5 economic development grants. And when you add those 6 grants to the scholarship program – and let me stop 7 right there and say that Dr. Fowlkes negotiated a 8 contract with the tobacco company to administer the 9 scholarship program; someone had to do that.</p> <p>10 And so the Tobacco Commission paid the 11 Higher Ed Center 350, \$400,000 a year, and that is to 12 set up an application process for scholarships, to 13 send that out, to receive the applications from the 14 students, to judge those applications as to who was 15 eligible and not, to receive payments from the 16 Tobacco Commission to send to the various schools.</p> <p>17 As time grew and students transferred 18 and graduated, then the Tobacco Commission many times 19 switched between a loan program and a grant program. 20 So oftentimes the scholarship program changed its 21 rules, so we had to keep up with that. We had to 22 create a database that could help with that. We had</p>	<p>38</p> <p>1 there was a shortage. And she asked, worked with 2 VCU, and they said, yes, we will bring it there, but 3 we can't pay the faculty. We can't buy the 4 equipment. We can't make the video connections 5 between the two sites.</p> <p>6 So the Tobacco Commission supplied 7 funds to do that. Most funds at the Tobacco 8 Commission were matching funds. If they put 500,000 9 into the project, VCU had to put \$500,000 into the 10 project. So she was successful in bringing a number 11 of educational programs, degree programs, to 12 southwest Virginia to serve the citizens of southwest 13 Virginia that would not have otherwise been able to 14 obtain a certified nurse anesthetist degree or a 15 doctoral degree in education.</p> <p>16 We have school superintendents that 17 have graduated from there. So primarily she used 18 those funds for building educational programs.</p> <p>19 Q I had asked you earlier when you first 20 took this CFO job at the Center what your pay was. 21 And you said approximately \$105,000. Now, at that 22 time when you first came aboard, was that all paid by</p>

Transcript of William D. Carmack

11 (41 to 44)

Conducted on March 12, 2019

	41		43
1 the Center or was that paid some by the Commission?		1 (Discussion off the record)	
2 A Initially, it was all paid by the		2	
3 Center.		3 BY MR. KINCER:	
4 Q All right. And when did that change?		4 Q Now, look at the first page and I will	
5 When did you start getting paid on a split basis?		5 represent to you -- you can look through there -- I	
6 A Approximately a year before I came to		6 will represent to you this is some materials for your	
7 work there, Dr. Fowlkes created a Foundation for the		7 CFO application and the job when you came aboard.	
8 purpose of obtaining research and development grants		8 You can just look through there and --	
9 through the Tobacco Commission, and also for the		9 A Uh-huh.	
10 purpose of obtaining federal grants of various types		10 Q It's a job description and resume.	
11 that would offer training programs for jobs in		11 Anything you think doesn't belong there, let me know.	
12 southwest Virginia.		12 A (Witness complying).	
13 The Foundation, when I came on board,		13 Q Did you review that, the documents that	
14 consisted of Dr. Fowlkes, a chairman, and probably		14 I just handed you, which I'm going to ask be marked	
15 two members. They had worked with an attorney in		15 as Exhibit 86?	
16 Richmond to create their bylaws and their operating		16 A Yes, I have reviewed them.	
17 agreements, not the Attorney General's office, a		17 MR. GRIMES: Counsel, do you know the	
18 private attorney in Richmond, who specialized in		18 Bates stamps of these documents, by chance?	
19 this. And Dr. Fowlkes had hired an individual by the		19 MR. KINCER: No, I don't. I didn't run	
20 name of Edwin Rogers who had a law degree, but did		20 mine from the Bates stamp, but we can get	
21 not practice, whose position was to establish		21 that. I'm sure that they have been produced.	
22 research and development grant applications, both		22 We can -- I will just make an exhibit that	
	42		44
1 federal, state and Tobacco Commission, to create		1 says what it says, and we can key them up	
2 research and development in clean fuel energies in		2 later if and when we use it.	
3 our marketplace.		3	
4 Q And your pay became -- what --		4 BY MR. KINCER:	
5 A Okay. We have attorney --		5 Q That is your resume?	
6		6 A It is.	
7 (Simultaneous colloquy interrupted by		7 Q And then does the CFO position, which	
8 the court reporter)		8 was vacant when you were hired, have you looked	
9		9 through that?	
10 BY MR. KINCER:		10 A Yes.	
11 Q Your pay became split or apportioned,		11 Q Does that seem to be your	
12 when?		12 responsibilities?	
13 A It became split two years after I began		13 A That's correct.	
14 working there, whatever year that was.		14 Q All right. And then I have a resume	
15 Q What year was it?		15 from you?	
16 A Let's see, I started in 2012. Oh, no		16 A It is correct.	
17 2014.		17 Q Okay. That is your resume?	
18 Q And take a look at the document I put		18 A Yes.	
19 in front of you.		19 Q That you submitted at the time?	
20 A Uh-huh.		20 A Yes.	
21 MR. KINCER: Off the record for a		21 Q And then help -- what is this? At the	
22 second.		22 very end of this stack of Exhibit 86 there is	

Transcript of William D. Carmack

12 (45 to 48)

Conducted on March 12, 2019

	45		47
1 something that's marked with the University of 2 Virginia symbol logo, and it says staff application. 3 What was that? Where did that come from?		1 Q Well, your resume, which is part of 2 a -- it's the resume you -- on your resume the first 3 thing listed is education, MBA 1999?	
4 A To apply for the CFO position at 5 Southwest Virginia Higher Ed Center you had to apply 6 through the University of Virginia. The Higher Ed 7 Center had a contract with UVA-Charlottesville to 8 administer the HR services for the Center. So you 9 applied through UVA-Charlottesville using their 10 documents.		4 A That would be correct.	
11 Q And if we look at the very last 12 document on your stack, that is your cover letter to 13 UVA's Department of Human Resources applying for that 14 position, correct? Very last document is yours.		5 Q Then it says California. I'm assuming 6 that's a typo?	
15 A That's correct.		7 A It's a typo.	
16 Q Okay.		8 Q It's not California Costal?	
17		9 A No, it's Coastal.	
18 (Exhibit Number 86 was marked for 19 identification)		10 Q And that's the resume you submitted for 11 the Higher Ed position?	
20		12 A I suppose so.	
21 BY MR. KINCER:		13 Q All right. Now, you also told me, you 14 told me that this California Coastal was accredited. 15 It wasn't accredited by anyone at the time that you 16 received your degree, was it?	
22 Q We had asked about your education. We		17 A It was accredited when I received my 18 degree.	
1 know about your education degree from Emory and 2 Henry, your bachelor's degree, and we know you got 3 the banking certificate.	46	19 Q All right. And your degree was in '99. 20 And it's not California Coastal; it's California 21 Coast, isn't it?	
4 A Uh-huh.		22 A Yes, it was 1999.	
5 Q You also got an MBA?		47	
6 A I did.		1 Q All right. Just take a look. And I 2 have got it in a different format. I'm just doing 3 this for the, so we can get the hyper-link site for 4 the Diploma Mill Police.	
7 Q Tell me about that. That's from 8 California Coastal?		5 Take a look at that report on 6 California Coast, and tell me if you agree or 7 disagree with their conclusion that California Coast 8 operated from 1973 to '05 without accreditation, and 9 it achieved DETC accreditation in 2005?	
9 A Coastal University in Santa Barbara, 10 California. When I was working for Johnston Memorial 11 Hospital, to progress in hospital administration, you 12 needed a master's degree. I chose to do a master's 13 in business administration with a concentration in 14 health sciences.		10 A I have no knowledge of this. When I 11 attended I had information that they were accredited 12 and the organization they were accredited by, because 13 I looked closely at that. I don't have that 14 information before me, nor have I looked at it in ten 15 years.	
15 And at that time there were not many 16 on-line programs east of the Mississippi. So I did a 17 lot of research. This was an accredited program. It 18 allowed me to obtain my master's within a two-year 19 period of time, visited campus twice in the summer 20 for a week.		16 Q You have those documents? Are they in 17 existence?	
21 Q You received that degree in 1999?		18 A I have no idea.	
22 A If that's what that resume says.		19 Q Do you know the difference -- you went 20 to Higher Education Center as the CFO. Do you know 21 the difference between the geographical accreditation 22 agencies like the Association of Southern Schools and	

Transcript of William D. Carmack

13 (49 to 52)

Conducted on March 12, 2019

	49		51
1	Colleges that do Virginia Tech and Duke and UVA, and	1	(Exhibit Number 87 was marked for
2	the DETC, for example, which is a national	2	identification)
3	accreditation that California Coast received in	3	
4	2005?	4	MR. GRIMES: Do we have another copy?
5	A Yes, I do.	5	MR. KINCER: I will get you another
6	Q What's the difference?	6	copy. The only difference is this one is,
7	A One is nationally recognized, the other	7	that's the one we want that he wrote, and this
8	is, I'm going to say, regionally or state	8	one is straight up. You see?
9	recognized.	9	MR. GRIMES: Off the record.
10	Q Are you aware whether or not the only	10	
11	purpose for DETC accreditation is to allow	11	(Discussion off the record)
12	for-Proffitt or proprietary schools to obtain	12	
13	Department of Education benefits, money?	13	BY MR. KINCER:
14	A I have no knowledge of that.	14	Q Okay. Mr. Carmack, you began work at
15	Q All right. Did you pay for your	15	the Center in 2012?
16	education or did you --	16	A That's correct.
17	A Yes. I paid cash for my education.	17	Q And you worked at the Center from 2012
18	Q Okay. There was no loans taken or no	18	through?
19	federal money?	19	A January 4, 2018.
20	A No, no.	20	Q As the CFO?
21	Q Was this program ineligible for federal	21	A Correct.
22	money at the time you attended?	22	Q Your job title never changed?
	50		52
1	A I have no idea.	1	A It did not change.
2	Q You never applied for any financial aid	2	Q Tell me, since there is an obvious
3	for that MBA from California?	3	overlap between your 2012 employment as CFO at the
4	A I did not.	4	Center and your association with Carmack Health
5	Q Okay. And is the -- would the typo in	5	Management, how much work were you doing for Carmack
6	your resume of California Costal, and then that, and	6	Health Management during any period of time that you
7	the on-line for California Coast -- is the	7	were employed by the Commonwealth of Virginia at the
8	institution that you have an MBA from California	8	Center?
9	Coast University?	9	A Yes. That was grandfathered in in my
10	A It is.	10	initial interview process.
11	Q All right. Have you ever expressed any	11	Q Is it in writing?
12	concern or apprehension to anyone during any of the	12	MR. GRIMES: Objection; you cut him
13	job positions that you have made since receiving that	13	off. He was right in the middle of his
14	MBA from California Coast, that you were really	14	answer.
15	apprehensive that that was going to pass muster?	15	MR. KINCER: I did.
16	A No, sir.	16	
17	Q Never told anyone that?	17	BY MR. KINCER:
18	A I never had any reason to have	18	Q Finish your answer.
19	concern.	19	A I, in the interview process, made all
20	MR. KINCER: Would you make the Diploma	20	parties aware that I had this relationship with
21	Police e-mail number 87.	21	Abingdon Physicians, ASC Management, that I would be
22		22	continuing that. My duties with that position were

Transcript of William D. Carmack

14 (53 to 56)

Conducted on March 12, 2019

	53		55
1 to attend a board meeting one night a month; that was		1 of your wage?	
2 from six p.m. forward. It was to answer e-mails or		2 A Correct. The Center was reimbursed out	
3 phone calls, which might be ten a week.		3 of that tobacco grant that we got for administering	
4 Q Ten a week?		4 the program's portion of my salary.	
5 A Maybe, that would come through. I		5 Q 75/25?	
6 might get an e-mail, someone asking a question.		6 A And benefits. It varied from	
7 There was one employee -- it was the clinical nurse		7 year-to-year, but the maximum was 75/25.	
8 administrator -- that I was responsible for insuring		8 Q Okay. Do you know whether similar	
9 that her paycheck was written each week. And I had		9 allocations were used for your benefits?	
10 permission to house that information at the Center		10 A Absolutely.	
11 and to do that information while at the Center.		11 Q And so it would have been at one point	
12 And it was made very clear, I was paid		12 as much as 75/25?	
13 a salary, but I was to put in a minimum of 40 hours a		13 A Yes.	
14 week. Most weeks I put in more like 60 hours a week		14 Q And that would be Center to	
15 at the Center while Dr. Fowlkes was there. And at no		15 Foundation?	
16 time, as I am a man of rules, at no time did I ever		16 A No, Foundation to Center.	
17 use Center time that I did not work over or come in		17 Q I'm sorry. Yes.	
18 early or insure that my 40 hours was put in by the		18 A Foundation to Center.	
19 State, because ethically that is important to me.		19 Q We weren't clear or I did, your	
20 Q Now, so you're working 40 hours for the		20 attorney did have a valid objection when I did	
21 Center, at least?		21 interrupt you. I want to know this.	
22 A At least.		22 A Uh-huh.	
	54		56
1 Q At least. You're working how much for		1 Q Do you have this, do you have this	
2 the Tobacco Commission?		2 permission to continue to do your Carmack Health	
3 A That was during the Center work,		3 Management work in writing?	
4 because I was also -- two years into the job -- we		4 A I do not.	
5 didn't finish answering this question awhile ago.		5 Q Who told you -- who granted you this	
6 Two years into the job, the Attorney		6 permission?	
7 General's Office came to Dr. Fowlkes and asked that		7 A Dr. Fowlkes and the Board of Trustees	
8 the Southwest Virginia Higher Education Center		8 and the Interview Committee at that time was made up	
9 Foundation be operationally split from the Center.		9 of Senator William Wampler, a gentleman who worked at	
10 And that meant that Dr. Fowlkes could no longer be a		10 the Center by the name of Jeremy Mitchell, Deborah	
11 voting member of the board.		11 Hensley and Dr. Rachel Fowlkes, and it was discussed	
12 And our AG rep at that time was		12 openly with all.	
13 Elizabeth Griffin, and she drafted a framework under		13 Q This was for an Interview Committee?	
14 which she was comfortable with the Foundation		14 A That was the Selection Committee,	
15 continuing. She asked that I serve as CEO of the		15 yes.	
16 Foundation and all Foundation work, and that my time		16 Q Okay. And that's when this was	
17 for that be maintained and the Foundation reimburse		17 discussed?	
18 the Center for that. That was done each year.		18 A It was discussed at every point. It	
19 Q And when was that? When was this		19 was discussed in my interview initially with Dr.	
20 split?		20 Fowlkes. It was discussed in the formal interview	
21 A Somewhere around 2014.		21 with the committee. And Dr. Fowlkes announced when	
22 Q So then the Tobacco would just pay part		22 she introduced me to the Board of Trustees, which	

Transcript of William D. Carmack

15 (57 to 60)

Conducted on March 12, 2019

	57		59
1 many I knew, announced what I would be doing in the 2 new position of CFO, and that I would be an asset to 3 the Center because of my experience and connection in 4 the medical field.		1 rotation time. That requires the commitment of the 2 medical facility, whether that's a hospital or a 3 physician practice or a laboratory. It also requires 4 an instructor or proctor on site, whether it be a 5 physician, nurse manager. So my job was to establish 6 these relationships, get contracts in place where we 7 would offer these services to health care, meet the 8 health care employment demands in southwest Virginia.	
5 And that was encouraged, that I 6 maintain that, so that as the programs grew and they 7 needed clinical sites and clinical managers, that 8 they would have inside party to be able to help 9 obtain those.		9 Q And when you say we, you were speaking 10 of whom? I didn't want to interrupt you during your 11 lengthy answer, but when you were referring to we, 12 we, we, we, who were you talking of?	
10 Q All right. Look, you mentioned the 11 grand vision or dream for all this tobacco money was 12 at one point we were going to have a medical school 13 in southwest Virginia. Well, that didn't come to 14 fruition, did it?		13 A Dr. Fowlkes, myself operationally, and 14 the Center's Board of Trustees who was behind the 15 development of these programs and could approve 16 them.	
15 A No, it did not.		17 Q Did you and Dr. Fowlkes have a 18 collegial relationship during your period of 19 employment with the Center?	
16 Q So you remained on as CFO, but you 17 really weren't working much health care for the 18 benefit of the Center, were you?		20 A We did.	
19 A Yes, I was working health care for the 20 benefit of the Center. When I came on board, Dr. 21 Fowlkes was opposing the medical school being built. 22 So I did nothing with the medical school. Frankly,		21 Q That was true up until the time you 22 left?	
	58		60
1 it was at its end of life when I came on board. One 2 of the first things that she asked that I do is to 3 repair relationships between the Center and 4 Department of Planning and Budgeting in Richmond, 5 which had gone bad sometime over the previous four 6 years.		1 A Yes. 2 Q You say that this outside, this work 3 for your Carmack Health Management, was discussed in 4 your interview and discussed with the folks that you 5 have identified earlier.	
7 Then she asked that I become involved 8 in helping to recruit and develop what's called, the 9 program through Virginia Commonwealth University 10 called Clinical Lab Science. She asked that I do 11 assessments with all -- at that time we had multiple 12 hospitals in southwest Virginia. They were not all 13 merged under Ballad Health, as they are today.		6 A It was. 7 Q And everyone said that was all right -- 8 A Yes. 9 Q -- but you never obtained anything or 10 was given anything in writing?	
14 I did health care needs assessments 15 where they were having issues in obtaining trained 16 employees. We had several meetings with the 17 hospitals to determine what the training needs were. 18 We went to the Tobacco Commission to obtain funds to 19 set up these programs. We established the programs 20 over a period of two to three years.		11 A That is correct, because I was told by 12 UVA at that time that they did not offer any sort of 13 contract. It was no written document.	
21 In all medical programs, following the 22 classroom instruction is always on-site or clinical		14 Q Okay. Told by -- UVA is a big place. 15 Who told you that? 16 A UVA. I don't recall the representative 17 of the Center at that time. That rotated annually. 18 The lady -- it was a lady is all I can recall -- that 19 was working with me on my employment papers, did not 20 put anything in writing. She said they did not offer 21 contracts.	
		22 Q Moving forward then, but so you were --	

Transcript of William D. Carmack

16 (61 to 64)

Conducted on March 12, 2019

	61		63
1	the Center via Rachel Fowlkes, as head of the Center,	1	Q You had this information being the
2	she was totally knowledgeable of this, your	2	knowledge of?
3	affiliation with Carmack health Care?	3	A Establishing what would be required in
4	A She was.	4	a clinic environment for a training program because
5	Q Health Management. I'm sorry. I	5	of my background in health care.
6	misstated it.	6	Q Did Mr. Matlock know you were
7	A She was.	7	conducting Carmack Health Management business on
8	Q Was David Matlock so equally	8	state time?
9	knowledgeable?	9	A Yes.
10	A Mr. Matlock and I never had any	10	Q He did? How did you learn this?
11	conversations about that.	11	A Same way everyone else knew that.
12	Q You never discussed that with him?	12	Q Which is?
13	A I never had the opportunity.	13	A I would have conversations during the
14	Q Did you ever talk -- you knew -- now,	14	day by phone. I might have someone drop by, visiting
15	15 Mr. Matlock -- strike all that.	15	the Center. There were physician training programs
16	Mr. Matlock succeeds Rachel Fowlkes as	16	there. Physicians would come out and speak with me
17	Executive Director of the Center, correct?	17	17 and talk with me. Everyone at the Center was aware
18	A Correct.	18	18 of it.
19	Q And you are still working at the Center	19	Q Let me ask you, when you became CFO of
20	20 as the CFO, and you are answerable to the Executive	20	20 the Center in 2012, were you issued any -- strike
21	21 Director?	21	21 that.
22	A Correct.	22	What IT or communication devices were
	62		64
1	Q Okay. And never during the entire	1	you issued by the Center?
2	period of time that you were at the Center, did you	2	A I was provided a cell phone and a
3	ever mention to Mr. Matlock this oral agreement that	3	laptop. And I paid 50 percent of the phone bills so
4	you had with his predecessor and ask if he was all	4	that we could -- this was universal, not just for me.
5	right with that?	5	As an employee there, you could pay 50 percent of the
6	A Mr. Matlock never allowed that	6	phone bill and use them as your personal devices.
7	opportunity for me to have a conversation, but he was	7	I also had a PC on my desk that
8	aware that I had the affiliation with the physicians,	8	belonged to the Center. And I had a PC on my desk
9	because he asked me to establish a clinic, set up a	9	that belonged to me that I used for cutting a payroll
10	training clinic, for a primary care nurse	10	check twice a month.
11	practitioner program that required knowledge of	11	Q Okay. A PC that belonged to you?
12	equipment and instruments and so forth.	12	A Yes.
13	He was fully aware of it. Again, I was	13	Q And you used that in your Carmack
14	never given the opportunity to have a professional	14	Health business?
15	conversation with him.	15	A Yes.
16	Q Okay. How do you make the leap that	16	Q And did you have a tablet?
17	from setting up this program with the nurse	17	A Only the laptop.
18	practitioner's program that that made Matlock	18	Q Is that what you refer to as a
19	aware?	19	tablet?
20	A He said, you have this information.	20	A I didn't recall a tablet. I have a
21	You know how to get it. Get it set up quick for	21	cell phone. iPad, I'm sorry. I had a cell phone and
22	me.	22	an iPad issued by the Center.

Transcript of William D. Carmack

17 (65 to 68)

Conducted on March 12, 2019

	65		67
1	Q	Uh-huh.	
2	A	And I had a traditional computer with a monitor on the desk, and then I had my laptop for personal use.	
3	Q	And the laptop was for personal use?	
4	A	Correct.	
5	Q	And that was for health care business?	
6	A	Correct.	
7	Q	Only health care business?	
8	A	Primarily.	
9	Q	Well, primarily. What else did you use it for?	
10	A	Nothing comes to mind of any specific.	
11	Q	Okay. Then you had your PC that you devoted exclusively to cutting checks for the health care business?	
12	A	That was that same PC.	
13	Q	Okay. That same -- Okay. Are you referring to -- a PC and a laptop, are we talking two different animals here? I always thought we were.	
14	A	It's a laptop like Terry is using.	
15	Q	I'm a dinosaur, but I thought a PC was the big machine that sat on your desk.	
16	A	I had one of those provided by the Center.	
17	Q	Okay. And then you had a laptop of your own?	
18	A	Correct.	
19	Q	And then you had -- when I was saying tablet I meant the iPad?	
20	A	Okay. iPad.	
21	Q	And that was issued by the Center?	
22	A	Correct.	
23	Q	And you didn't use that for health care business?	
24	A	I used it for personal use, because I paid half of the phone bill for the use of the iPad and the telephone. And that was commonplace of all employees who were issued those devices. We had personal use.	
25	Q	No, we didn't -- you told me earlier you paid half price for the cell phone. You paid 50	
26		1 percent of your bill for the cell phone, as did all the employees, right, that had the devices issued?	
27	A	That chose to do that. Some chose not to use it as their personal phone.	
28	Q	But did others have the same deal with the iPad, which I consider as different?	
29	A	Yes, they did.	
30	Q	Okay. So if you wanted to use it for your personal device, you had to pay 50 percent?	
31	A	Which was included in the phone bill. They were connected together through Verizon.	
32	Q	Okay. So you made one 50 percent payment --	
33	A	Yes.	
34	Q	-- for any State-issued device?	
35	A	Yes.	
36		(Simultaneous colloquy interrupted by the court reporter)	
37		MR. GRIMES: Well, it goes both ways.	
38		MR. KINCER: I think there is a worse	
39		defender of that.	
40		MR. GRIMES: Objection. Shall we vote on that?	
41		MR. KINCER: Sure, we can, only if we do Australian ballot.	
42		MR. GRIMES: Well, Sid will canvass the 25 employees in the litigation section of the AG's office and have the answer.	
43		10 BY MR. KINCER:	
44		11 Q Okay. Let me finish my question, and I 12 will let you finish my answer. I tend to have slow 13 questions, and you tend to have lengthy, lengthy 14 answers. So let's both be aware of that. All 15 right?	
45		16 MR. GRIMES: Objection to the 17 characterization of the witness' testimony; 18 it's not accurate.	
46		19 MR. KINCER: Whatever. I mean, you 20 know, we were doing so well.	
47		21 MR. GRIMES: If you say whatever, why 22 did you bring it up?	

Transcript of William D. Carmack

18 (69 to 72)

Conducted on March 12, 2019

	69		71
1	MR. KINCER: Because I want him to quit	1	A It varied up to the 25, but the first
2	cutting my questions off.	2	year that I was CEO of the Foundation it only
3	MR. GRIMES: And we want you to quit	3	required maybe 15 percent of my time. As grants
4	cutting his answers off.	4	grew, my time involved with that, because activities
5	MR. KINCER: He has answered every	5	were greater, and so it worked up to 25.
6	question and more.	6	Q And in looking at the next paragraph, I
7		7	think you testified earlier, if I wrote your response
8	BY MR. KINCER:	8	down correctly, that you thought it was about 2014
9	Q All right. Any other communication	9	that the, Elizabeth Griffin from the OAG had made
10	devices issued by the Center for your use?	10	10 that change, and that's my recollection too.
11	A No, sir.	11	So is 2016 in paragraph eight, is that
12	Q All right.	12	incorrect? Do you see in that, in 2016?
13	MR. KINCER: Can we take a five-minute	13	A I think that would be 2014.
14	break. I'm getting to the Amended Complaint	14	Q Okay. That's why we are doing this.
15	and that will be lengthy.	15	A With that said --
16	MR. GRIMES: Off record.	16	Q Go ahead.
17		17	A With that said, Elizabeth brought to us
18	(A recess was taken)	18	18 in 2014 an outline and excused herself from going any
19		19	further, because it was Foundation business. The
20	(Exhibit Number 88 was marked for	20	20 Foundation hired their own attorney, who put together
21	identification)	21	21 the operating agreement and bylaws and was approved
22		22	22 by Elizabeth; however, Elizabeth became very
	70		72
1	BY MR. KINCER:	1	concerned in 2016 that the Center and the Foundation
2	Q We are back from break. I have handed	2	were not totally separate. And it had to do with the
3	you a copy of an Amended Complaint. You have seen	3	collection process of the student loan program.
4	that document before, haven't you?	4	Q Collection insofar as?
5	A I have.	5	A Student loans that were delinquent or
6	Q And this lawsuit is presently pending	6	that we were making payments on.
7	against the Commonwealth and the Center and	7	Q And if you turn the page and paragraph
8	Mr. Matlock, and you're the plaintiff in that	8	8 continues. I wanted to ask you about the last
9	lawsuit, correct?	9	line. This is where the Foundation also built the
10	A Correct.	10	10 Energy Center. Tell me about the Energy Center.
11	Q All right. And I just wanted you to	11	A Prior to my coming on board, the
12	have it available for you. I'm going to ask you some	12	Tobacco Commission, through their research and
13	questions about it, and then we will go back to what	13	development division, had set aside money to build
14	we talked about.	14	14 three -- I'm going to refer to them as incubators or
15	Looking at page two of the Complaint,	15	15 three buildings throughout the tobacco region, whose
16	paragraph 7, and I'm looking at the last line of	16	16 primary purpose was to be a place for start-up
17	17 paragraph 7. That says, "Carmack was paid 75 percent	17	17 companies that could get a foothold in the community
18	18 by the Center and 25 percent by the Southwest	18	18 and hoped would grow and hire employees.
19	19 Virginia Higher Education Foundation."	19	The other two regions, the other two
20	And that's the numbers you gave me	20	20 Centers were built first. Dr. Fowlkes was very
21	earlier, but you weren't differentiating between,	21	21 reluctant to build the Center and she held out. I
22	22 that that had ever varied, that that...	22	22 was on board probably a year, and the Tobacco

Transcript of William D. Carmack

19 (73 to 76)

Conducted on March 12, 2019

73
 1 Commission finally said, Rachel, build it or lose the
 2 money. We want it out there. And so she asked me to
 3 take the project over, that it would be deeded to the
 4 Foundation because it was a grant. The building
 5 would be deeded to the Foundation, because it's grant
 6 funded.

7 Preliminary studies had been done prior
 8 to my coming that because southwest Virginia was the
 9 coal bed for coal, natural gas, that it would be nice
 10 if we could create jobs in those sectors. Connected
 11 with education, research and development is an
 12 important part, aspect. Dr. Fowlkes was very
 13 academic minded and she wanted to see a building
 14 built. We named it the Research Center.

15 The original intent of that building
 16 was to create bays that companies that had an idea or
 17 a start-up company could come in, use that space, do
 18 further research and development that was grant
 19 funded, to try to get their product to market to
 20 create jobs in the area. So the building was built
 21 for that purpose.

22 Q All right. And was it later that you

73
 1 nationwide posting. It was not just limited to the
 2 state.

3 There were a number of applications
 4 coming in. I had access to those applications, and
 5 at one time there were as many as 40, one of which
 6 was mine. I attended the Tobacco Commission meeting
 7 in April of '15, and Senator Carrico took me to the
 8 side and he said, I know you're applying for the job,
 9 but I want to make you aware that I'm giving the job
 10 to David Matlock.

11 Q And what was the exact date of that
 12 conversation with Bill Carrico?

13 A All I can tell you is it was at the
 14 April Tobacco Commission meeting that was in
 15 Martinsville. We would have to go back to look at
 16 the Tobacco minutes to see the date.

17 Q Okay. But so if that conversation
 18 occurred in April of 2015, Carrico wouldn't have been
 19 the Chairman of the Board of Trustees, would he? The
 20 coal man was.

21 A Kevin Crutchfield was chairman until
 22 June.

74
 1 had some role in leasing some space in that
 2 building?

3 A Much later.

4 Q Much later. We're jumping far ahead,
 5 aren't we?

6 A Yes.

7 Q All right. Let's continue on with the
 8 Amended Complaint paragraph ten. And this is where
 9 we begin, "Matlock was selected for the Executive
 10 Director position as a result of the substantial
 11 influence of Senator Bill Carrico, Chairman of the
 12 Board of Trustees of the Southwest Virginia Education
 13 Center, due to his political affiliation."

14 I want to ask you, what facts do you
 15 have to support the allegation of that first sentence
 16 of paragraph ten, that Carrico had any substantial
 17 influence in getting Matlock hired?

18 A Dr. Fowlkes announced to the Board of
 19 Trustees in January of '15 that she would be retiring
 20 June 30th. Sometime in the Spring of '15 a job
 21 description was listed for her position and a posting
 22 was put out for her position. And it was a

74
 1 Q Okay. Well, you see how that reads in
 2 paragraph 10? That's incorrect, isn't it, or
 3 misleading, the way that reads in paragraph ten?

4 A It depends on the time you're talking
 5 about.

6 Q It depends? What do you mean by is?

7 A Because Senator Carrico became Chairman
 8 of the Board in the middle of June that year. The
 9 board met and named him chairman.

10 Q He was not Chairman of the Board when
 11 he allegedly had this conversation with you?

12 A He was Chairman-elect at that time.

13 Q Excuse me?

14 A He was Chairman-elect at that time.

15 Q Okay. And what did you say to this
 16 announcement by Senator Carrico that he apparently
 17 had decided that Mr. Matlock was going to become
 18 Executive Director?

19 A I said, that's certainly your
 20 privilege.

21 Q Okay. Well, who had the hiring
 22 authority for that position? You applied for the

Transcript of William D. Carmack

20 (77 to 80)

Conducted on March 12, 2019

	77		79
1 position. Who would have had to have hired you, had 2 you been hired?		1 that Senator Carrico had contacted them and asked 2 them to support his desire.	
3 A The Board of Trustees.		3 Q What committee member? Which committee 4 members told you that?	
4 Q And how many people were on the Board 5 of Trustees at that time back in 2015 when this 6 position --		5 A Jeff Webb, Joyce Brooks, Philip 6 Puckett, Marcia Gilliam, Kevin Crutchfield, Sean 7 McMurray.	
7 A Approximately 23.		8 Q Crutchfield, and who was our last? You 9 mentioned Crutchfield. I didn't catch the last?	
8 Q Okay. And that would require a 9 majority of the board vote?		10 A Kevin Crutchfield.	
10 A Correct.		11 Q Okay. And you named one more person, 12 didn't you?	
11 Q Not Senator Carrico's sole vote?		13 A Sean McMurray.	
12 A Correct.		14 Q Okay. So those six people told you 15 that?	
13 Q Okay. So whether you wanted the 14 position that these other 40 applicants that you've 15 mentioned wanted the position, or Dave Matlock wanted 16 the position, 23 members of the Board of Trustees of 17 the Center would have to agree, a majority of the 23 18 would have to agree?		16 A Yes.	
19 A Correct.		17 Q That Carrico had called them?	
20 Q So where was Bill Carrico's substantial 21 influence factually?		18 A Yes.	
22 A He commented to me on that same date	78	19 Q Any other board members except those 20 six tell you that, that Carrico had called them and 21 stated what you just said?	
		22 A I think that's all.	
1 that he was going to make a visit to Kevin 2 Crutchfield to let him know of his wishes. Prior to 3 that time frame, Kevin Crutchfield had said to me 4 personally that he supported me for the position and 5 I thanked him for that. But as I told him, I took 6 the job for retirement purposes. I did not take it 7 to become Executive Director.	80	1 Q All right. And what was there 2 objectively about your job interview -- you say you 3 were one of seven interviewed. What was there 4 objectively about that interview that led you to your 5 subjective belief that it was cursory?	
8 I needed ten years in VRS, and so I 9 felt like that -- there were maybe seven people 10 interviewed, selected to be interviewed by the 11 Interview Committee. I was one of those, and I felt 12 like my interview was very cursory; it was ten 13 minutes. And that very evening before the interviews 14 were complete, I received a phone call that said that 15 they had a better qualified applicant.		6 A I was not asked questions specifically 7 related to my ability to do the job as director. 8 Each person had a question that they asked. The 9 majority of those around the board started their 10 question with, well, we already know you, we know 11 what you have done or can do, but my question is X. 12 They would ask their question. I would 13 answer it. Went around the room. The end. Out. 20 14 minutes.	
16 And so I felt like that that was a 17 decision made quickly, and I felt like that that was 18 influenced by Senator Carrico's decision.		15 Q All right. And this was certainly a 16 private interview with you and the board?	
19 Q Okay. I felt like. That's subjective 20 feelings. What objective belief led you to feel that 21 way?		17 A Yes.	
22 A I had feedback from committee members		18 Q And so you were not in attendance at 19 any of the other interviews of the six additional 20 people?	
		21 A Yes, I was.	
		22 Q You got to attend each other's	

Transcript of William D. Carmack

21 (81 to 84)

Conducted on March 12, 2019

	81		83
1 interviews?		1 Q Okay. And what did you understand your	
2 A No. But as interim director – and I		2 role as interim director to be?	
3 had already been removed from the list -- I		3 A To continue the sound fiscal and	
4 participated in the interviews of two other		4 operational work of the Center. I received a letter	
5 candidates.		5 from Senator Carrico approximately four days into my	
6 Q Who were they?		6 position telling me what my limits were, that I was	
7 A I don't recall. Carol. That's all I		7 to move forth as usual, except for those limits.	
8 can remember. Dr. Carol someone from Minnesota.		8 Q And we will look at that. We'll look	
9 Q Hold one second. Okay.		9 at that communication. Essentially, what the limit	
10 A I don't remember the name of the other		10 is, you're not going to make any big hiring and	
11 candidate.		11 firing changes here, that were your limits was with	
12 Q Okay. So it was a Carol from		12 personnel?	
13 Minnesota?		13 A That was his statement.	
14 A Uh-huh.		14 Q Right. That was your only limits?	
15 Q And another candidate, male or		15 A I would have to look at the	
16 female?		16 statement.	
17 A It was female.		17 Q All right. We'll look at that this	
18 Q And they were interviewed and you said		18 afternoon after lunch. Now, I'm going back to	
19 you participated. What was your role in --		19 paragraph ten, because we got ahead of ourself (sic)	
20 A I asked Senator Carrico, who was		20 with interim directorship and the interview. So I'm	
21 Chairman of the Board, as interim director did he		21 going back to -- we say -- the sentence that we left	
22 want me to participate in these activities, and he		22 off, we talked about him hiring Matlock.	
	82		84
1 said it was my choice. I chose to be involved in all		1 Where did, even in the statement that	
2 aspects of the Center when I became interim		2 you had earlier testified to that you say Carrico	
3 director.		3 made to you, the statements, where was political	
4 Q When did you become interim director?		4 affiliation ever discussed?	
5 A July 1st when Dr. Fowlkes retired.		5 A Mr. Carrico had made it very clear to	
6 Q When would you have been interviewed?		6 me that David had been a loyal supporter of his, and	
7 A I was interviewed sometime that summer.		7 that he had a lot of respect for Mr. Matlock's work	
8 I could not tell you.		8 at the community college. And Mr. Carrico runs on a	
9 Q Before or after July 1?		9 Republican ticket, so I would assume support would	
10 A After.		10 mean supporting that.	
11 Q So you were the interim director when		11 Q All right. Carrico was familiar with	
12 you were interviewed?		12 Matlock's work at the community college?	
13 A Yes.		13 A According to his statement, yes.	
14 Q So it would have to have been after		14 Q According to Senator Carrico?	
15 July 1?		15 A Yes.	
16 A Yes.		16 Q And you know that Senator Carrico, when	
17 Q You were named interim director by		17 we see him on the TV screen, it's always Carrico and	
18 whom?		18 it has got a little R after his name, correct?	
19 A The Board of Trustees.		19 A Correct.	
20 Q Okay. The same Board of Trustees that		20 Q He's a Republican?	
21 gave you a cursory interview?		21 A I assume.	
22 A Yes.		22 Q So you assumed he was a Republican, and	

Transcript of William D. Carmack

22 (85 to 88)

Conducted on March 12, 2019

	85		87
1 you knew he knew David Matlock from the Community 2 College and thought highly of him, so, hence, you 3 make the leap that it's got to be because of his 4 political affiliation?		1 Q Uh-huh. Now, next sentence in 2 paragraph ten, "Both Matlock and Senator Carrico are 3 Republicans." It's not hard to figure that Senator 4 Carrico is a Republican. How did you know Matlock's 5 political affiliation, if any?	
5 A Mr. Carrico indicated to me in that 6 April statement that David had supported him, and to 7 me that meant supported him politically.		6 A He made it public throughout the 7 building, his comments of support of Senator Carrico. 8 When President Trump was running for office, he had a 9 personalized license plate with G, standing for grand 10 old party, on there.	
8 Q But he didn't say that?		11 He made it very obvious with 12 Ms. Brooks, who was a known Republican. She would 13 tell you quickly that she was Republican. They would 14 kind of laugh and make comments about the Republican 15 party. And it appears that another employee, Adam 16 Tolbert, who was the 90th district congressional 17 chairman of the Republican party, had run for office, 18 local office on the Republican ticket. He became 19 friendly with him, and they seemed to all support the 20 same beliefs with their comments they made at the 21 Center.	
9 A He did not say politically.		22 Q All right. Now, you've jumped ahead	
10 Q Was there any other, in that April 11 statement, any other -- let's get the entire 12 statement, because this was additional to what we 13 talked about the first time.		86	
14 Tell me everything else, if you haven't 15 stated it before, tell me anything else that Carrico 16 told you in that April statement except what we've 17 now discussed.		1 Matlock statement?	
18 A He just made the comment he was going 19 to see Kevin Crutchfield, who was then Chairman of 20 the Board, who had verbalized his support for me, to 21 let him know of his wishes.		2 A That was prior to that. He opened 3 with, I want you to know that I am supporting David 4 Matlock for that position.	
22 Q All right. And then when is the		5 Q All right. Go ahead. I'm sorry.	
86		6 A He followed by saying, I will be 7 speaking with Kevin Crutchfield, who was Chairman of 8 the Interview Committee, as well as the Board to let 9 him know of my feelings. That was the 10 conversation.	
1 Matlock statement?		11 Q But Senator Carrico never directly or 12 expressly mentioned political affiliation at any time 13 he discussed this position with you?	
2 A That was prior to that. He opened 3 with, I want you to know that I am supporting David 4 Matlock for that position.		14 A At that time, correct.	
5 Q All right. Go ahead. I'm sorry.		15 Q At any time?	
6 A He followed by saying, I will be 7 speaking with Kevin Crutchfield, who was Chairman of 8 the Interview Committee, as well as the Board to let 9 him know of my feelings. That was the 10 conversation.		16 A He inferred it.	
11 Q But Senator Carrico never directly or 12 expressly mentioned political affiliation at any time 13 he discussed this position with you?		17 Q My question was, did he ever expressly 18 say that?	
14 A At that time, correct.		19 A I don't recall.	
15 Q At any time?		20 Q All right. Could have, could not 21 have?	
16 A He inferred it.		22 A Could not have, could have.	
17 Q My question was, did he ever expressly 18 say that?		88	
19 A I don't recall.		1 and you told me a lot, and we will go back into all 2 that. I'm just reading the line in your complaint.	
20 Q All right. Could have, could not 21 have?		3 A Okay.	
22 A Could not have, could have.		4 Q So after we immediately -- and I know 5 you provided information. You probably did not write 6 this pleading, but right after we talk about the 7 political affiliation, our next sentence is, "Both 8 Matlock and Senator Carrico are Republicans," which 9 is just a statement of fact.	
		10 I want to know how, at the time before 11 David Matlock's hiring, did you know what his 12 political affiliation, if any, was.	
		13 A Prior to his hiring, I had no idea what 14 his political affiliation was.	
		15 Q Right. And when you were saying it was 16 clear in the building, and in all the comments that's 17 going to be in the record, and I'm not going to try 18 to repeat them, or repeat them verbatim, but your 19 comments about Joyce Brooks and it was all over that 20 they were Republicans and Trump was running and all 21 this stuff, that was after Matlock was hired?	
		22 A Yes.	

Transcript of William D. Carmack

23 (89 to 92)

Conducted on March 12, 2019

	89		91
1 Q Okay. I'm going through this paragraph		1 Matlock had not been hired for the position yet."	
2 ten of the complaint where we are leading up to the		2 When did that conversation occur?	
3 hiring. So that's where my mindset is now. So any		3 That's another conversation.	
4 of that statement that you made earlier was after		4 A That conversation took place after I	
5 Matlock had been hired?		5 received the phone call from the Interview Committee	
6 A Those statements were after Matlock was		6 that I was not the selected candidate, but the final	
7 hired.		7 candidate had not been named publicly. And I spoke	
8 Q Okay. Now, we have discussed -- no,		8 with Bill, since he, quote, was my supervisor as	
9 tell me this. How, in the Commonwealth of Virginia,		9 interim director, and suggested that they consider,	
10 does one register as a Democrat at age 18, or at any		10 as is normal in state jobs when you take on	
11 age whatsoever? How does one do that?		11 additional responsibilities, a temporary increase in	
12 A At the time I registered to vote, I had		12 pay for the duties.	
13 to register as a Democrat or a Republican.		13 And he said that that would be up to	
14 Q Did you become a registered voter at		14 David, that I would need to ask him once he was on	
15 age 18 in another jurisdiction except the		15 board.	
16 Commonwealth of Virginia?		16 Q And was this after your interview?	
17 A No, sir.		17 A It was after my interview.	
18 Q So you don't know whether or not --		18 Q Was it after the interview of these	
19 let's see, you say you're 63 years old. You would		19 other ladies that you participated in or before?	
20 have registered to vote near the time I did. Are you		20 A I can't remember.	
21 saying at the time you registered to vote in		21 Q So you can't remember if you had	
22 Washington County, Virginia, within the Commonwealth		22 participated in any interviews as interim director at	
	90		92
1 of Virginia, that one expressed party affiliation		1 the time this statement was made?	
2 when they voted?		2 A No, sir, I can't. It was – mine had	
3 A I did.		3 been over.	
4 Q That's your testimony under oath?		4 Q And one thing, and I want to make sure	
5 A To the best of my memory I did.		5 your testimony is clear and I'm clear, because I get	
6 Q All right. And then we talked,		6 it confused in going through this stuff. But there	
7 "Carmack was told not to apply for the information."		7 is a difference between the hiring committee that we	
8 You have already told me that. Look at that		8 are talking about and the board of the Foundation,	
9 statement. Have we already covered that with your		9 isn't there?	
10 previous testimony?		10 A Correct.	
11 A Yes.		11 Q And wasn't Kevin Crutchfield -- he was	
12 Q Okay. Anything additional you remember		12 not chairman of the hiring committee, just the	
13 except what is written and what we talked about,		13 board?	
14 "Carmack was told not to apply?" Any other facts		14 A No. He was chairman of the hiring	
15 come to you?		15 committee.	
16 A No.		16 Q He was chairman of the hiring	
17 Q None?		17 committee?	
18 A None.		18 A He was.	
19 Q Okay. Thank you. And then the next,		19 Q And wasn't Senator Puckett serving as	
20 "In fact, when Carmack asked about an increase in pay		20 the committee chair?	
21 for filling in as interim, Senator Carrico told him		21 A Not that I recall.	
22 to ask Matlock when he arrived, despite the fact that		22 Q You would defer to whatever the	

Transcript of William D. Carmack

24 (93 to 96)

Conducted on March 12, 2019

	93		95
1	official records show?	1	A Yes.
2	A Sure.	2	Q All right. But he was on the job
3	Q Do you know Senator Puckett's political	3	October '15?
4	affiliation, sir?	4	A To the best of my knowledge.
5	A All I know about Senator Puckett is	5	Q All right. Did you know Mr. Matlock
6	what was in the press when he was in Democratic	6	before he was hired as Executive Director?
7	office and resigned.	7	A I knew him socially.
8	Q Okay. Look at, we are still on	8	Q What do you mean by that?
9	paragraph ten. You said, "Carmack never received	9	A Well, I had met him in public many
10	10 additional pay for being interim director." Two	10	times. We belonged to the same Rotary Club. Hello,
11	11 questions. Did you ever ask for it?	11	David, hello, Duffy was the extent of our
12	A I did.	12	relationship, but yes, I knew him.
13	Q Who did you ask for it?	13	Q Prior to the time he was hired as
14	A David Matlock.	14	Executive Director had you ever been to his house?
15	Q What did Mr. Matlock say when you asked	15	A No.
16	16 for interim pay for your short-term as director?	16	Q Had he ever been to yours?
17	A He told me I was paid too much in	17	A No.
18	18 comparison to the other department directors and he	18	Q Ever gone out to dinner together?
19	19 wasn't going to do it.	19	A No. Wait. He invited us to a
20	Q When did that conversation occur?	20	Christmas dinner after he came on board.
21	A That conversation would have occurred	21	Q Yes, sir. Thank you for the
22	22 in probably November or December of '15.	22	clarification. Did you like him, dislike him, before
	94		96
1	Q Well, after he had come on as --	1	he came on board?
2	A He came on 1st of November full-time.	2	A I didn't have an opinion about
3	Q Okay. Well, actually, we will get into	3	Mr. Matlock before he came on board. I didn't have
4	the next sentence and see which is right, your	4	enough interaction with him to have an opinion about
5	testimony or the allegation in the Amended Complaint.	5	him.
6	'Matlock was to begin work as Executive Director on	6	Q And you didn't have any, whether
7	October 1, 2015, but he did not appear on the job	7	opinion or knowledge, factual knowledge, you didn't
8	until October 15, 2015." Which is correct?	8	know anything about his job responsibilities and
9	A Both. I was told by Senator Carriico	9	qualifications while at the Community College,
10	10 that Mr. Matlock would begin work October 1st, but	10	Virginia Highlands?
11	11 because he had commitments at the community college	11	A I knew what his job title was at
12	12 that he needed to fulfill, he would come down to the	12	Virginia Highlands, and I knew through public
13	13 building to say hello, but he was around two weeks	13	speeches that he would make about the Foundation at
14	14 before he began to be there on any kind of regular	14	the community college or development or recruitment
15	15 basis. And for the month of October he was in and	15	of students, that those were the types of things that
16	16 out between the Higher Ed Center and community	16	he was involved with.
17	17 college, which was next door.	17	Q So you had no opinion one way or the
18	Q Right. So he was working at both of	18	other about his service while he was employed at
19	19 them?	19	Virginia Highlands Community College?
20	A Yes.	20	A Personally, no.
21	Q Like you were working for your health	21	Q Well, hearsay, scuttlebutt, anything
22	22 management company?	22	you want to reminisce about?

Transcript of William D. Carmack

25 (97 to 100)

Conducted on March 12, 2019

	97		99
1 A No.		1 answer, because I knew that that position would be a	
2 Q So you would have no information from		2 very political position.	
3 any source?		3 And what I looked at was that I was 57	
4 A No factual information from any		4 years of age, and I didn't have a pension plan. And	
5 source.		5 that state job looked very attractive to me, that if	
6 Q Okay. Opinionated information?		6 I worked until the mandated age or worked until 70,	
7 A I heard a lot of opinions about		7 that I would have a reasonable pension from the	
8 Mr. Matlock through various committees that he served		8 Commonwealth of Virginia. So in talking to Dr.	
9 on.		9 Fowlkes, I never made the assumption I would be	
10 Q When was that?		10 director. I negotiated a salary at the position that	
11 A For years.		11 I knew if I had that for ten years, I would receive a	
12 Q And what opinions?		12 nice retirement check.	
13 A Didn't show up, late, didn't follow		13 Now, many people on the Board of	
14 through, always wanted to take credit for someone		14 Trustees came up to me and said, oh, you would make a	
15 else's work. Those were the type of opinions I		15 great director. We hope you're going to apply for	
16 heard, but I didn't know any of that to be true.		16 that. I just took that as a compliment, said thank	
17 Q Right. You could not vouch for it but		17 you and went on, but that's not the reason I went to	
18 you had heard such information?		18 work there.	
19 A Up to that point, that's correct.		19 Q Who was making these at-a-boy	
20 Q And that point would be before you even		20 statements to you?	
21 started working for him?		21 A Members of Board of Trustees.	
22 A Correct.		22 Q Who? Specifically which ones?	
	98		100
1 Q So would it be fair to say, at least by		1 A Dr. Ron Proffitt, Kevin Crutchfield,	
2 reputation, that you had heard, nothing that you		2 Marcia Gilliam, Susan Short, from Virginia Tech,	
3 could swear to, but by scuttlebutt or reputation or		3 Cecil Drane from Old Dominion University.	
4 gossip or ever how we want to characterize it, you		4 Q Anyone else you recall?	
5 had heard some negative things about his work at the		5 A I can't recall who the members were	
6 community college?		6 back then.	
7 A Correct.		7 Q All right. So looking for successors,	
8 Q All right. Looking at paragraph		8 when were you ever led to believe that you were going	
9 eleven, it says, "Dr. Fowlkes was a strong Democratic		9 to be that person by Ms. Fowlkes, by Dr. Fowlkes?	
10 supporter and she hired Carmack. Carmack was Dr.		10 A She said that to me before she hired	
11 Fowlkes' pick to be the successor Executive		11 me, I want you to be my successor.	
12 Director." Several questions from paragraph eleven.		12 Q All right. Well, that's not a contract	
13 A Uh-huh.		13 of employment, is it?	
14 Q First of all, it is a fact that Fowlkes		14 A It's not.	
15 hired you as CFO?		15 Q And you didn't take it as such?	
16 A She did.		16 A I did not.	
17 Q Okay. Now, tell me what factual		17 Q It was a complimentary confidence	
18 information, what allows you to say that you were,		18 builder to an employee coming on board, don't you	
19 Fowlkes' pick to be successor Executive Director?		19 think?	
20 A She said to me on many occasions, even		20 A I just viewed it as a compliment from a	
21 prior to hiring me, that she was looking for a		21 controlling lady. That was it.	
22 successor for her position. I never accepted that		22 Q All right. We spoke earlier and you	

Transcript of William D. Carmack

26 (101 to 104)

Conducted on March 12, 2019

	101		103
1 told me that for one to become Executive Director at 2 the Center, it would take a majority vote of 23 board 3 members?		1 affiliation. But the comment was made, if you got 2 the job, it would be a continuation of Rachel and the 3 Democratic party.	
4 A Correct.		4 Q How could anyone have any basis in fact 5 for making that statement if we don't know your 6 political affiliation?	
5 Q So Rachel Fowlkes was not the hiring 6 authority for her successorship (sic), was she?		7 A They made the assumption that because I 8 was Rachel's pick, I was a Democrat.	
7 A No, and I knew that when she made that 8 comment to me.		9 Q You believe that?	
9 Q All right. So this statement that you 10 testified to just now, what does the fact that you 11 subjectively was her pick to be successor, what does 12 that mean to you?		10 A I believe that. It was said to me.	
13 A It's misleading.		11 Q All right. So just in the bluntness 12 department, how is that any different than -- if 13 everything you said is true for purposes of my 14 question, and Carrico is making all these 15 behind-the-scenes political dealings for Republicans, 16 how is that any different than what happened to you 17 by getting signed on to CFO?	
14 Q How do you know it was untrue when 15 made?		18 A It's inappropriate on both parts.	
16 A I think it was true on her part, but 17 she didn't have the authority to make those 18 statements, but I knew that at the time.		19 Q All right. Comments -- and I'm on 20 paragraph 12.	
19 Q Okay.		21 A Okay.	
20 A But someone who didn't have that 21 knowledge could have been well misled by that.		22 Q "Comments were made to Carmack after	
22 Q But you weren't because --	102		104
1 A No, I was not.		1 Matlock was hired that he, quote, 'belonged to the 2 wrong party,' end quote or, quote, 'you belong to the 3 other party', end quote, or words of that effect. 4 These comments were made by at least Adam Tolbert, 5 Jeff Webb and David Matlock."	
2 Q All right. Now, this just now occurred 3 to me, looking at paragraph eleven. "Dr. Fowlkes was 4 a strong Democratic supporter and she hired Carmack." 5 Why is that important?		6 My recollection is you testified a 7 little bit to that earlier, you had mentioned those 8 comments when we jumped ahead. Now tell me every 9 time that Adam Tolbert made any partisan statement to 10 you.	
6 A Rachel was a well-known Democrat in 7 Washington County, Virginia. She was very active in 8 the Democratic party, as well as her former husband. 9 They gave lots of money. They participated. They 10 campaigned actively. They had bumper stickers. I 11 mean it was a known fact.		11 A Adam is a very introverted person. 12 He's a very intelligent person. The only time I ever 13 heard Adam talk was about politics. That was his 14 hobby, his passion, and he stayed current with 15 political actions. And he was very active in the 16 Republican party and had worked as campaign chairman 17 for candidates in Roanoke and southwest Virginia in 18 the past, and would often make comments, you're on 19 the wrong side, the wrong party.	
12 Q Uh-huh.		20 Q Okay. And the way you made it was 21 just, the way this sounded -- and this is not being 22 videotaped -- but that was just a matter-of-fact	
13 A When I was hired, there was an 14 assumption made by a group of folks in the center who 15 did not care for Dr. Fowlkes and was just ready for 16 her to move on, felt like that she had stayed long 17 enough, who all represented themselves as Republican. 18 And they would make the comment, if you got the job, 19 it would just be a continuation of another Democrat. 20 They did not know my political affiliation.			
21 Q Excuse me?			
22 A They did not know my political			

Transcript of William D. Carmack

27 (105 to 108)

Conducted on March 12, 2019

	105		107
1 statement? Adam's statement to you was just a		1 Rachel ran, the non-partisan, the neutral, there's	
2 matter-of-fact, you're in the wrong party?		2 both parties and we don't mention it here, when did	
3 A Correct.		3 that atmosphere change?	
4 Q Wouldn't any true believer, and I mean		4 A When David arrived.	
5 true believer from the true blue to the true red,		5 Q After he was already hired?	
6 isn't every true believer going to believe that their		6 A Yes.	
7 opponents are of the wrong party or misguided?		7 Q All right. But when were you getting	
8 MR. GRIMES: Objection;		8 the comments during your candidacy or potential	
9 argumentative.		9 candidacy for Executive Director, well, that would be	
10 MR. KINCER: It's not argumentative.		10 great, because we can have another Democrat, this	
11 Are you telling him not to answer the		11 will be a continuation of the Democratic leadership?	
12 question?		12 When did those occur, sir?	
13 MR. GRIMES: I'm just trying to get my		13 A Those occurred to me during the	
14 objection on the record. Wait just a moment		14 interview process by employees of the Center, two of	
15 and I'll be finished.		15 which were on the Interview Committee.	
16 MR. KINCER: Okay.		16 Q And who were they?	
17 MR. GRIMES: Objection to the form of		17 A Joyce Brooks and Jeff Webb.	
18 the question; argumentative. Go ahead and		18 Q That was said to you in the	
19 answer the question, subject to objection.		19 interview?	
20 THE WITNESS: Dr. Fowlkes, despite the		20 A Said to me to my face at the Center.	
21 fact that she was a Democrat in the community,		21 Q Okay. Not in the interview?	
22 ran a very strict policy at the hiring center;		22 A Not in my interview.	
	106		108
1 politics doesn't matter, because you are going		1 Q Just pass them in the hall or --	
2 to always have a Republican administration or		2 A Yes.	
3 Democratic administration and funding is going		3 Q Okay. And that was before your	
4 to come from both, and that was instilled.		4 interview?	
5 Everyone that worked there knew that, politics		5 A I don't remember whether it was before	
6 was not discussed. Politics was not brought		6 or after.	
7 in during her administration.		7 Q Okay. So apparently Dr. Fowlkes'	
8 Political division began when she		8 non-partisanship had not extended to those two?	
9 resigned and Senator Carrico became Chairman		9 MR. GRIMES: Objection to the form. Go	
10 of the Board. And we had employees in the		10 ahead and answer the question.	
11 building who became very vocal about being		11 THE WITNESS: Dr. Fowlkes had already	
12 Republican and supporting the Republican party		12 left June 30. This was after that. This was	
13 and they took the lead in surrounding		13 after David's announcement that he was going	
14 themselves with Mr. Matlock, and they began to		14 to apply for candidacy and interviews were	
15 make comments openly about, positive comments		15 taking place.	
16 about the Republican party and Senator Carrico		16	
17 and what a relief it would be to have Rachel		17 BY MR. KINCER:	
18 out of the building and new administration and		18 Q When was that announced?	
19 new leadership.		19 A I think we interviewed probably in	
20		20 August.	
21 BY MR. KINCER:		21 Q As interim director during you -- that	
22 Q All right. When did the shop that		22 was from July 1 of 2015 and through when, October?	

Transcript of William D. Carmack

28 (109 to 112)

Conducted on March 12, 2019

	109		111
1 A I say October 15 but until David was		1 A His comments were around his support	
2 there full-time.		2 for Senator Carrico as a Republican. His comments	
3 Q Okay. Of 2015?		3 were that, although we differed -- and I say that as	
4 A Of 2015.		4 a quote -- he supported the Republican party and	
5 Q During the hiring or recruiting process		5 President Trump. And so, again, he inferred that I	
6 for the executive director's position, did you have		6 was a Democrat.	
7 access to applicant files and information,		7 Q But those matter-of-fact statements,	
8 references, curriculum vitae, that type of stuff?		8 are those statements the extent of Webb's comments to	
9 A All applications that came in for the		9 you?	
10 position were to be directed to Joyce Brooks as		10 A Yes.	
11 Director of Human Resources. So I did not see the		11 Q Okay. And how many times were those	
12 written applications of any of those people. I just		12 comments made to you?	
13 knew the numbers that came in.		13 A Twice.	
14 Q So your response tells me that you told		14 Q Okay. And this was after Matlock's	
15 me what the preferred method would be, that they were		15 hiring?	
16 to go to Joyce Brooks?		16 A One was prior to.	
17 A Correct.		17 Q One prior. Whose? Webb's?	
18 Q All right. So leaving aside whether		18 A Webb's.	
19 they were or not, is it your testimony that you never		19 Q One comment prior and two after?	
20 reviewed any other applicant's --		20 A Yes.	
21 A No, I did not.		21 Q Okay. Let's talk about the defendant,	
22 Q Let me finish my question.		22 David Matlock. How many comments did he make to you	
	110		112
1 A Okay.		1 concerning partisanship?	
2 Q You never reviewed any other		2 A I'm going to say four.	
3 applicant's hiring materials and supporting documents		3 Q Okay. And this was, obviously, after	
4 while interim director?		4 he was hired as director?	
5 A I did not.		5 A Yes.	
6 Q Thank you.		6 Q All right. Tell me what the comments	
7 MR. KINCER: Off the record.		7 were and when, to the best of your recollection, they	
8		8 were made?	
9 (Discussion off the record)		9 A The comments -- his political	
10		10 favoritism to the Republican party became obvious in	
11 BY MR. KINCER:		11 the building and upon arrival. Those comments were	
12 Q All right. You told me about Adam		12 made to me in 2016. Once was just kind of a	
13 Tolbert's comments that you were the wrong party.		13 flippant, in the hall, you're in the wrong party	
14 With what frequency were those comments made to you		14 conversation.	
15 by Adam Tolbert?		15 Twice in my office where we were trying	
16 A They were made three times.		16 to discuss budgetary measures, and he was letting me	
17 Q All right. And let's talk about Jeff		17 know that he had the support of the Republican party,	
18 Webb. Who is Jeff Webb?		18 particularly Senator Carrico, that I didn't need to	
19 A Jeff Webb was the manager of		19 worry about preparing budget or requesting additional	
20 Information Technology Department.		20 funds, that he had a sugar daddy that would take care	
21 Q And what comments did he make to you		21 of that, referring to Dr. Carrico.	
22 concerning any partisanship or party membership?		22 Q That was in his exact words?	

Transcript of William D. Carmack

29 (113 to 116)

Conducted on March 12, 2019

	113		115
1 A Yes.		1 shook hands, and I went back to my office, and that	
2 Q And that was in the budget discussion		2 was that.	
3 with Matlock's office?		3 When he first started coming to the	
4 A In my office.		4 building in October he came into the building, and	
5 Q In your office in 2016?		5 Kathy Heitala, who is his administrative assistant,	
6 A Yes, sir.		6 which is -- I'll tell you quick, she is a Republican,	
7 Q Anyone else present?		7 and a very strong special friend of Senator	
8 A Debbie Hensley was present for one of		8 Carrico -- Joyce Brooks, Adam Tolbert and Jeff Webb,	
9 those comments.		9 who, at that time, your three department managers	
10 Q Which one was she present for?		10 were Joyce, Jeff and myself, and the maintenance guy,	
11 A That we didn't have to worry about		11 Eddy Sproles, who, more than likely, was out on sick	
12 submitting a capital budget request, that Senator		12 leave during this time.	
13 Carrico would take care of that for us.		13 David came into the building. Everyone	
14 Q Okay. When is the sugar daddy comment		14 went in his office and closed the door except me. I	
15 made?		15 was not invited. Following whatever took place in	
16 A Sugar daddy comment was made to me. If		16 that conversation, it became very apparent that he	
17 I remember correctly, it was in a manager's meeting		17 was taking his leads as to what the issues at the	
18 with Joyce Brooks, David, myself and Jeff Webb		18 Center were from Joyce, Kathy and Jeff.	
19 present.		19 In November of '15, I felt it	
20 Q All right. And that's, so that's --		20 imperative to go in and say, I would like to bring	
21 was there another statement made? You prefaced your		21 you up-to-date on what is going on as interim	
22 answer that we're talking about that Matlock's		22 director. So, A, I let him know that the Higher	
	114		116
1 political favoritism was apparent upon his arrival		1 Education Center was fiscally sound, and I talked	
2 there. Was that by way of comment or did you have		2 with him about the various pots of money that we had.	
3 some other --		3 Number two, I reminded him that I	
4 A It was comments about his devotion		4 operated by the rules, I was the kind of guy that	
5 toward Senator Carrico, and how he supported Senator		5 didn't deviate from that, and that we were very	
6 Carrico, and that he would do great things for our		6 careful to operate the Center according to -- it's	
7 Center. Senator Carrico would do great things for		7 called CAPPs. It stands for the Commonwealth	
8 our Center.		8 Accounting Policies and Procedures. Those are the	
9 Q And so what other comments did Matlock		9 guidelines under which UVA and the Commonwealth	
10 ever make to you?		10 operate from an audit perspective.	
11 A Those were behaviors.		11 In that conversation he asked me if I	
12 Q Excuse me?		12 knew what needling meant, and I said I did not. And	
13 A Most were behaviors.		13 so he proceeded to tell me that needling was when a	
14 Q What behaviors did he make evidencing		14 mother bird built a nest, and she put sharp objects	
15 partisanship or predilections?		15 pointing upwards. After the birds were hatched, she	
16 A Shortly after arriving, I made -- as		16 would begin to take threads of that nest loose,	
17 interim director, prior to arriving, I went up to his		17 leaving the sharp prongs, which incentivised the	
18 office to congratulate him on being named executor.		18 birds to leave the nest. And that that was the	
19 And he told me how relieved he was that I had come up		19 method he used to get people off the team that he did	
20 to speak with him, that he was concerned about the		20 not want.	
21 fact that he got the job and I did not, and that he		21 Q Okay. And that's November 2015?	
22 looked forward to working with me hand-in-hand. We		22 A Yes.	

Transcript of William D. Carmack

30 (117 to 120)

Conducted on March 12, 2019

	117		119
1 Q	What did you think about that?	1 A	Yes.
2 A	I took that as a pretty clear message	2 Q	And it's an e-mail to you from the
3 that he didn't care for me being a part of his team		3 Senator?	
4 based on the fact that I had been excluded to date		4 A	Yes.
5 from any conversation pertaining to the business of		5 Q	And that's advising of what? How did
6 the Center or the finances of the Center.		6 you take that? Is that what we talked about earlier	
7 Q	From any conversation?	7 about him limiting you?	
8 A	From any.	8 A	No. He wrote a specific letter to me
9 Q	But how long had Mr. Matlock been there	9 limiting my power to hire, fire and to make other	
10 at the time this conversation occurred, a couple		10 changes at the Center, but that's separate from this	
11 weeks?		11 communication.	
12 A	Six to seven weeks. When I say any,	12 Q	Excuse me?
13 I'm talking about individual conversations between he		13 A	That's separate from this
14 and I.		14 communication.	
15 Q	All right. Let's see if there is	15 Q	He said, "Please see enclosed..." --
16 something shorter than this. This is going to be a		16 and I don't have the attachment -- "...resolution	
17 long --		17 passed by Executive Committee during yesterday's	
18 (Pause in proceedings)		18 meeting, which outlines your roles and	
19		19 responsibilities as interim Executive Director."	
20 BY MR. KINCER:		20 A	Correct.
21 Q	That's for you to review.	21 Q	Did you recall seeing such an
22 A	(Witness complying).	22 attachment?	
	118		120
1 Q	All right. Have you had a chance to	1 A	I do.
2 look at the June 17th Duffy Carmack?		2 Q	Okay. And that limited of what the
3 A	Yes.	3 Board wanted you to do?	
4 Q	Who is Susan Carkeek?	4 A	What the Executive Committee asked,
5 A	Susan Carkeek was at that time our HR	5 yes.	
6 representative from UVA-Charlottesville.		6 Q	Right. The Executive Committee of the
7 Q	Is she the lady that told you, we don't	7 Board?	
8 do any contracts, so don't worry, we know you work at		8 A	Yes.
9 the ambulatory center?		9 Q	Which consisted of how many people?
10 A	I don't recall. Again, that position	10 A	It varied. I couldn't tell you.
11 turned over very frequently as to who our rep was.		11 Q	Well, what's the most you remember and
12 Q	All right. And you wrote this	12 what's the fewest?	
13 e-mail?		13 A	I can remember three being on it. The
14 A	I did.	14 most I ever remember on it is probably five or six.	
15 Q	All right. And go to the second page	15 Q	All right. And then going up, did
16 of that. I'm going to have that marked as Exhibit		16 you -- but did the information provided or this	
17 89, I believe, jointly, the two e-mails. Have you		17 e-mail from the Senator, did that upset you or bother	
18 had a chance to review that?		18 you?	
19 A	Yes.	19 A	I found it unusual under the situation
20 Q	All right. And this is the -- at the	20 that I had been there for five years, and would be,	
21 bottom is an e-mail from -- it's Senate District 40.		21 in a very short period of time. I had no plans to	
22 That's Bill Carrico's district, isn't it?		22 make any major changes, only to keep the Center	

Transcript of William D. Carmack

31 (121 to 124)

Conducted on March 12, 2019

<p>1 running. If someone left, I would attempt to fill a 2 position or post a position. I had no agenda, so I 3 was surprised as to why he would send that.</p> <p>4 Q All right. When you say you had been 5 there five years, you had been at the Center five 6 years. You had been interim director for a grand 7 total of 31 days?</p> <p>8 A Sure.</p> <p>9 Q All right. And had you made any 10 statements, whether orally or in writing, that there 11 was going to be some big changes made around here 12 during the Carmack interim?</p> <p>13 A None.</p> <p>14 Q Or words to that effect?</p> <p>15 A None.</p> <p>16 Q Okay. But you seemed to thank Senator 17 Carrico for providing that information. Is that what 18 the e-mail of July 31, which is going to be page two 19 of Exhibit 89, is that what that said?</p> <p>20 A I don't understand the question.</p> <p>21 Q "Bill, thanks for the information from 22 the Executive Committee. It's helpful to have</p>	<p>121</p> <p>1 the front desk. And at that time that position came 2 under Conference Services. She was leaving. She was 3 moving. And so that's what vacated the position as a 4 receptionist at Conference Services. It was -- she 5 was wage, but she worked a lot of hours. She was a 6 smiling face you saw most days when she came in 7 there.</p> <p>8 Q All right.</p> <p>9 MR. KINCER: And did you mark that 89? 10 Would you hand that to the court reporter?</p> <p>11</p> <p>12 (Exhibit Number 89 was marked for 13 identification)</p> <p>14</p> <p>15 BY MR. KINCER:</p> <p>16 Q During Mr. Matlock's Executive 17 Directorship of the Center and your duties as CFO of 18 this Center, did you two have a constructive 19 relationship?</p> <p>20 MR. GRIMES: Objection to the form, the 21 definition of the word constructive. Go ahead 22 and answer, subject to the objection.</p>
<p>1 direction from this group. Please be advised we are 2 hiring additional wage employees part-time to fill 3 vacancies in our Conference Services Department, and 4 a receptionist to replace Nicole Farrar, who's 5 leaving next week. These are all wage positions that 6 are needed to continue effective operations of the 7 Center."</p> <p>8 So is that what you were telling him, 9 you had very limited changes?</p> <p>10 A Based on his correspondence to me of no 11 changes, I felt like I needed to have his permission 12 to make those changes. So that's why I sent the 13 e-mail.</p> <p>14 Q And we will talk about some specific 15 individuals later. But in reference to your July 31 16 e-mail to the Senator, where you're referencing a 17 vacancy in the conference service department, was 18 that one of the hourly, set-up-the-table jobs --</p> <p>19 A Those vacancies were, yes.</p> <p>20 Q -- that you were referring to. Go 21 ahead. I'm through.</p> <p>22 A Ms. Farrar worked as a receptionist at</p>	<p>122</p> <p>123</p> <p>1 BY MR. KINCER:</p> <p>2 Q Positive, constructive relationship for 3 the good of the Center?</p> <p>4 A I never felt like we had a good 5 relationship.</p> <p>6 Q And tell me why that you thought that.</p> <p>7 A Having been interim director, when he 8 came down the first time, he did not set down and say 9 fill me in, bring me up-to-date. He had some 10 individual group meetings by department, again 11 nothing in detail or executive level discussion with 12 me.</p> <p>13 I was excluded immediately from 14 meetings with what I call his disciples, and that's 15 defined by Ms. Heitala, Mr. Webb, Mr. Tolbert, 16 Ms. Brooks. And so I felt very much on the outside 17 from, upon his arrival. And as he continued to work 18 there that relationship only grew more estranged.</p> <p>19 Q And more estranged from a professional 20 relationship?</p> <p>21 A From a professional relationship.</p> <p>22 Q And you grew more alienated and hostile</p>

Transcript of William D. Carmack

32 (125 to 128)

Conducted on March 12, 2019

	125		127
1 towards him, didn't you?		1 in November, and I assumed she turned 65. That	
2 A No, sir.		2 precipitated my meeting with Susan Carkeek in	
3 Q All right. Let's look at paragraph 14		3 Charlottesville that was referenced in the earlier	
4 to the Complaint, and this is a preface before we		4 e-mail. She was a department manager. She was the	
5 start getting into the OSIG complaint. You say,		5 head of HR. She was also our operations director;	
6 "Thereafter, overtime plaintiff discovered that		6 she wore a couple of hats.	
7 Matlock was wasting and misusing agency funds and		7 So I wanted to talk to Susan about the	
8 resources. Examples include the following."		8 process of that decision, refilling that position,	
9 Now, let me recap. You are interim		9 the timeline in posting that position, because,	
10 director from July 1 of 2015 to sometime in October		10 obviously, it was a management scale position. I	
11 of 2015?		11 knew that that might happen about the time	
12 A Correct.		12 Mr. Matlock would be coming to work, but the	
13 Q And David Matlock comes on as Executive		13 groundwork for that, as far as posting the position,	
14 Director of the Center. We know he was hired on		14 would have had to have been done while I was interim.	
15 October 1. Whenever he was there or not there is of		15 And back to January of '16. As soon as	
16 no consequence for this.		16 Ms. Brooks, again, let Mr. Matlock know that she was	
17 During the period of time from October		17 thinking about retiring in the not too distant	
18 of 2015 onward, how long did it take you to discover		18 future, he immediately moves Adam Tolbert, who is a	
19 that Mr. Matlock was wasting and misusing agency		19 young man who had worked at the Center for maybe	
20 funds and resources?		20 three years in Information Technology, into, quote,	
21 A Beginning very early in 2016, I noticed		21 shadow Ms. Brooks or to train for her position.	
22 that policies and procedures that were in place at		22 I went to Mr. Matlock at that time and	
	126		128
1 UVA related to hiring, accounts payable, accounts		1 said, pre-selection at UVA is an issue. And you need	
2 receivable, were not being followed. We would make,		2 to follow the policies and procedures that are	
3 myself, Debbie Hensley, Alicia Young, all the Finance		3 outlined; you can't just put someone in that job.	
4 Department would make comments to him or reminders of		4 The comment was, he's just shadowing her. He's just	
5 him of, this need to be done or signed by a certain		5 training. The issue with that was he was given	
6 date, to try to help him along.		6 access, total IT access, to all information that	
7 Very early on in January it begins, we		7 Ms. Brooks had as a senior level management;	
8 begin to think about budget for the next fiscal year.		8 salaries, reviews, hiring, posting positions, the	
9 Ms. Hensley and myself met with him on two or three		9 whole nine yards and he was, frankly, an employee in	
10 occasions to talk about how the budget process		10 IT.	
11 worked. He was not a good listener. He appeared		11 And I had several employees in IT -- I	
12 very disinterested in what we had to say, and made		12 had two employees in IT come to me and express	
13 the comment that he would contact Christine Fields,		13 concern that their co-worker in the next cubicle had	
14 who was the person in the finance position prior to		14 access to their evaluations and their salaries.	
15 my arrival, who had worked, who was currently then		15 Q Who were the two that complained of	
16 working at Virginia Highlands Community College.		16 that?	
17 Again, I perceived that as either no		17 A Nicky Raley and Austin Deirks.	
18 confidence in what we had to offer or no interest in		18 Q And that complaint was made to you	
19 what we had to offer regarding the budget.		19 approximately when?	
20 Mrs. Brooks, Joyce Brooks, had -- while I was interim		20 A Probably in the Winter of '16.	
21 director -- had said to me she would be retiring		21 Q All right. And you thought -- well,	
22 sometime around November. Her birthday was sometime		22 strike that.	

Transcript of William D. Carmack

33 (129 to 132)

Conducted on March 12, 2019

	129		131
1	There was nothing, per se, wrong with	1	A It should be upon announcement of the
2	anyone shadowing another employee to learn their	2	retirement.
3	jobs, is there, at the Center?	3	Q Okay. Thank you.
4	A To me that's a perception that they are	4	A Although she didn't retire forever.
5	going to be given that job.	5	Q Right, she did. So that, besides
6	Q Who's perception, Mr. Carmack's or	6	grammatically in error, it's factually in error,
7	someone else's?	7	number g?
8	A Mine and also, according to UVA policy,	8	MR. GRIMES: Objection to the form.
9	if there is a job opening, it needs to be posted,	9	What's the question?
10	10 qualifications posted, applications taken, screened,	10	
11	11 and a decision made. They frowned against	11 BY MR. KINCER:	
12	12 pre-selecting someone for the job prior to that	12	Q 14 g.? Question mark. Is that right?
13	13 process.	13	Is that a correct statement?
14	Q There was no job position open, was	14	MR. GRIMES: Is what a correct
15	15 there, at the time that you were fielding this	15	statement?
16	16 concern?	16	
17	A No.	17 BY MR. KINCER:	
18	Q No position was open, so none of those	18	Q "In December 2015, of upon the
19	19 requirements came into play?	19	retirement on Human Resource Manager, Joyce
20	A It was -- I considered it to be	20	20 Brooks..." Was Joyce Brooks retired in December of
21	21 unethical. The employees of the Center shared that	21	21 2015?
22	22 with me. They considered it unethical.	22	A She announced she was going to retire
	130		132
1	Q Who shared that with you?	1	1 in the future.
2	A I can't think of an employee that	2	Q Okay. With the certitude you have just
3	3 didn't.	3	expressed, announced she was going to retire in the
4	Q So --	4	future?
5	A Except, except Kathy Heitala and Jeff	5	A Yes.
6	6 Webb.	6	Q Okay. So the position wasn't open?
7	Q So every employee considered that	7	A No.
8	8 unethical in the IT section?	8	Q Okay. "...Matlock moved Information
9	A Yes, except Jeff Webb.	9	Technology employee Adam Tolbert to Human Resources."
10	Q Well, Heitala wasn't in IT, was she?	10	10 Is that what you were talking about, the shadowing?
11	A Right.	11	A He did.
12	Q So this occurred, if I'm -- and I want	12	Q All right. While Adam Tolbert was
13	13 to go more in order, but this is where you started,	13	shadowing Joyce Brooks, when did Ms. Brooks
14	14 so this is where we will go. You're talking about --	14	eventually leave employment at the Center?
15	15 if you will go to paragraph, page 7, and it's your	15	A January 4, 2018.
16	16 paragraph G. And I think that's what we are talking	16	Q So about three years later after this
17	17 about. That's OSIG number one.	17	approximately?
18	A Uh-huh.	18	A I guess.
19	Q You see there in December of 2015?	19	Q Well, do the math. December 2015.
20	A Yes.	20	A Sure.
21	Q "Upon retirement of on Human Resource	21	Q All right. So why did it take -- so
22	22 manager..." That's supposed to be of, isn't it?	22	22 that occurred in December, that incident occurred,

Transcript of William D. Carmack

34 (133 to 136)

Conducted on March 12, 2019

	133		135
1 and you were aware of that when it occurred?		1 they could meet with me the following morning. So I	
2 A Yes, she made it publicly known		2 went to Richmond and met with Gretchen White in DHRM,	
3 throughout the building, announced it several		3 who referred me to Amanda Monaco, who referred me to	
4 times.		4 Alex Morgan.	
5 Q I'm sorry. I might not have been		5 And there was an internal director of	
6 clear, or you made an assumption. But you were aware		6 DHRM – and, I'm sorry, I don't know his name at that	
7 of this shadowing that ethically offended you per		7 point – because there was question as to whether or	
8 your earlier testimony, and you were aware of it in		8 not as classification of an employee that I was with	
9 December of 2015?		9 UVA, whether I had the right to file a grievance or	
10 A Yes.		10 not. And so they had to take it to the director who	
11 Q All right. And why does it wait over		11 said I was eligible to file a grievance, but he	
12 two years to show up in an OSIG complaint?		12 suggested I just report it to OSIG.	
13 A There were a variety of abuse and		13 Q Do you have a written decision,	
14 harassments that Mr. Matlock continued to put toward		14 document that shows your eligibility to file a	
15 me over '16 and '17. And I am not accustomed to		15 grievance?	
16 working in an environment in that level or being		16 A I don't know.	
17 treated in that manner. I don't take it lightly, and		17 Q Do you ever recall seeing such a	
18 I was always optimistic that he and I could find some		18 thing?	
19 positive ground on which to work.		19 A I recall getting word from the	
20 And so when it became so severe that it		20 Department of Human Resource Management, and I don't	
21 was just almost intolerable for me to physically be		21 remember if it was an e-mail or if it was a phone	
22 present, and certainly impossible for me to do my job		22 call, that I had been deemed eligible to file a	
	134		136
1 as chief financial officer, then I was forced with		1 grievance.	
2 the dilemma of his infractions were creating		2 Q But you don't have that e-mail?	
3 audit exceptions. And so I went to the State to ask		3 A Not with me, and I don't know that I	
4 for the most constructive way for resolution.		4 have it in my presence. I would have to look in my	
5 Immediately they told me to go to OSIG, and that		5 files.	
6 would have been February of 2017.		6 Q And you don't know who sent you that	
7 But I continued to work through the		7 e-mail?	
8 various departments of DHRM, in hopes there would be		8 A That e-mail would have come from Amanda	
9 some mediation or some outside third party brought in		9 Monaco.	
10 to bring a constructive, less damning outcome instead		10 Q Okay. And have we exhausted all the	
11 of straight to OSIG. But that didn't happen, and so		11 five people you talked to? Are we missing -- is the	
12 in June I had no other choice, and upon		12 acting director the last one?	
13 recommendation of five individuals at the State, I		13 A The acting director was the last one.	
14 filed a complaint.		14 Now, following that visit, I had conversations with	
15 Q Let's talk. Five individuals. Tell me		15 the Secretary of Higher Education, who was Dietre	
16 all five individuals with the State that told you to		16 Trent's office, about this concern and that lady's	
17 file, to do this?		17 name was Alex Morgan. And OSIG asked my permission	
18 A I began my concern with setting down		18 to send my complaints on to Peter Blake, who was the	
19 with the ombudsman at the University of Virginia.		19 director of what we call SCHEV, State Counsel of	
20 His name will come to me in a moment. He		20 Higher Education, to review, and Peter sent it back	
21 immediately, after listening to my concerns, picked		21 and said it was not a SCHEV issue, it needed to be	
22 up the phone and called DHRM in Richmond and asked if		22 dealt with with DHRM and ORT.	

Transcript of William D. Carmack

35 (137 to 140)

Conducted on March 12, 2019

	137		139
1 Q	All right. And what did you do next?	1 have time. I will deal with it later.	
2 A	I waited. Finally, by the end of June	2 It wasn't until the end of '16 that I	
3 I was feeling like that Mr. Matlock's errors, if I		3 felt like, this is severe enough that either I	
4 didn't address them to OSIG, he would have just cause		4 could lose my job by not calling attention to	
5 in terminating me, because these errors had taken		5 it, or I need to go to the state and ask for	
6 place, and I had not followed up with them or		6 assistance.	
7 attempted corrective action.		7	
8	So I filed a report online at the end	8 BY MR. KINCER:	
9 of June to OSIG and, ironically, it did not go		9 Q So you were concerned about any	
10 through. When you do a case on-line it's assigned a		10 nonfeasance on your part?	
11 case number. I did this Thursday, and by Tuesday I		11 A I was concerned that allowing it to	
12 hadn't heard. So I picked up the phone and called,		12 continue, I would be a party to it, having knowledge	
13 and Shawn Cowardin happened to be the investigator		13 of it.	
14 who answered the phone. I explained what had		14 Q And that was one of the things that,	
15 happened. He went into the system and looked. And		15 one of the factors that motivated you to file the	
16 he said, I see nothing. He said, I don't understand		16 OSIG complaint when you did?	
17 what happened, but resubmit it right now. I		17 A One of the factors.	
18 resubmitted it, and within an hour I had a case		18 Q All right.	
19 number.		19 A And may I just say, Brad Holland is the	
20 Q All right. So is the fact it didn't go		20 ombudsman's name at UVA I could not recall.	
21 through of any significance to you?		21 Q Thank you. All right.	
22 A Not at this point.		22 MR. KINCER: What time is it?	
	138		140
1 Q	Okay. You're just stating a fact?	1 MR. HARDY: 12:47.	
2 A	Yes.	2 MR. GRIMES: Off the record.	
3 Q	All right. But we started this, and we	3	
4 will go back through the OSIG complaint in more		4 (Discussion off the record)	
5 excruciating, painful detail after lunch. But my		5	
6 original question to you was, if you were aware in		6 (A lunch recess was taken)	
7 December of 2015 that Mr. Matlock was doing something		7	
8 unethical, why did you wait over two years to bring		8 (Exhibit Number 90 was marked for	
9 that to anyone's attention?		9 identification)	
10	MR. GRIMES: Objection; asked and	10	
11	answered. Go ahead and answer that again.	11 BY MR. KINCER:	
12	THE WITNESS: I had, first of all, it	12 Q Mr. Carmack, I put in an exhibit before	
13	smarts. I thought, he's new, he'll learn,	13 you marked number 90. Have you seen that document	
14	he'll figure it out. And it became apparent,	14 before?	
15	after six months of trying to assist him or	15 A I have.	
16	explain what the processes and policies were,	16 Q And what do you understand that	
17	and those processes continued to be denied and	17 document to be?	
18	violated, they kind of grow on each other.	18 A I understand that to be correspondence	
19	And so then the severity of them began	19 from the office of OIG that's addressed to then	
20	to increase. And regardless of what feedback	20 Secretary Dietre Trent, Secretary of Education.	
21	we would give Mr. Matlock, it was ignored and	21 Q You were hotline report 16077; were you	
22	usually met with, I'm in a hurry. I don't	22 not?	

Transcript of William D. Carmack

36 (141 to 144)

Conducted on March 12, 2019

	141		143
1 A According to this document, yes.		1 timely." You made that allegation to the Inspector	
2 Q All right. Well, does this appear to		2 General?	
3 be the complaints that, or at least some of the		3 A I did.	
4 complaints you made to the --		4 Q And tell me why did you feel that	
5 A Yes.		5 untimely submittal of travel reimbursements were	
6 Q -- Inspector General?		6 worthy of an OSIG complaint?	
7 A Yes.		7 A According to the CAPP manual, any type	
8 Q I want you to take a look through that		8 of travel or expense needs to be invoiced, entered	
9 report, take all the time you need to, and you will		9 and paid within 30 days of the time it was incurred.	
10 see there is an allegation and then some other stuff,		10 If an auditor goes through a file and finds it in	
11 allegation, allegation.		11 excess of that, it's an exception. It's an audit	
12 Let me know after you look at Exhibit		12 policy violation.	
13 90 if there were any other allegations that you		13 Q Okay. And, again, we are referring to	
14 lodged that do not appear to be addressed in Exhibit		14 the Commonwealth Accounting Policies and	
15 Number 90.		15 Procedures?	
16 A The document that I sent to the OSIG's		16 A Yes.	
17 office had 16 items in those. When I received a call		17 Q I think I got from your earlier	
18 from Mr. Cowardin, several, probably two months after		18 testimony before the luncheon break, you're a pretty	
19 I submitted it, he stated to me that a lot of those		19 by-the-book person?	
20 items he felt like needed to be addressed by DHRM,		20 A Most of the time I try to be.	
21 and he was sending those on to them, and that he was		21 Q All right. But you thought that this	
22 going to address the ones that he felt like pertained		22 should have been raised to a OSIG complaint?	
	142		144
1 to fraud and abuse.		1 A As long as it went on, yes.	
2 Q So you originally made 16		2 Q Well, how many times did you ever	
3 allegations?		3 address that issue with Mr. Matlock?	
4 A That's correct.		4 A It was addressed by me on two	
5 Q And you told me -- was this the		5 occasions. And I know it was addressed by	
6 investigator that you were talking with?		6 Ms. Heitala to him on one occasion that she	
7 A Yes, Mr. Cowardin at OSIG.		7 referenced to me that she had sent him a reminder by	
8 Q And could you spell the last name?		8 e-mail, and addressed by Ms. Deborah Hensley at least	
9 A C-o-w-d-i-n (sic).		9 one time.	
10 Q And the basic response to those that		10 Q All right. So that's four times?	
11 are unaddressed in Exhibit Number 90 was that they		11 A That I know of.	
12 needed to be addressed to DHRM?		12 Q That you know of, yes, sir. And the	
13 A Correct.		13 two times that you had addressed it, how did you do	
14 Q Did the investigator or anyone else at		14 that?	
15 OSIG ever tell you that of those 16 allegations you		15 A Just verbally, David, we need to have	
16 filed, a good number of them were petty?		16 these done within a 30 day time frame.	
17 A No, sir.		17 Q What about Heitala; do you know how she	
18 Q All right. Look on page 3 of 5 of		18 addressed it?	
19 Exhibit 90, and this is allegation number four. And		19 A I don't.	
20 we won't go into it all, but your allegation was		20 Q And what about Ms. Hensley?	
21 essentially, well, stated here as being, "Mr. Matlock		21 A Verbally.	
22 does not submit travel reimbursement requests		22 Q Okay. Now, go back to page two of five	

Transcript of William D. Carmack

37 (145 to 148)

Conducted on March 12, 2019

	145		147
1 and look at allegation two. It's "Two wage employees 2 waste state time for a system that handles 3 scholarships and loan funds." Did you make that 4 complaint?		1 Q Now, that was around arm's length 2 solicitation?	
5 A I did.		3 A Yes, yes.	
6 Q And are these the Holts?		4 Q Right. So let's switch. You can keep 5 that nearby, but would you go back to exhibit -- was 6 that our --	
7 A Barry and Elizabeth Tate.		7 MR. HARDY: What exhibit number is the 8 Amended Complaint?	
8 Q Tate. I'm sorry. So this concerned 9 the Tates?		9 MR. HARDY: 88.	
10 A Correct.		10 MR. KINCER: I guess I could look on 11 mine too.	
11 Q Prior to filing an Inspector General 12 complaint against Mr. Matlock for that, did you ever 13 discuss that issue with him?		12	
14 A Many times.		13 BY MR. KINCER:	
15 Q In what format?		14 Q Go to page four of the Complaint. And 15 this is paragraph 14 b. And that begins, that 16 sentence begins, "When plaintiff learned that a 17 husband and wife computer team were, quote, 'working' 18 in a questionable manner from home and were seldom in 19 the agency building," and it continues on.	
16 A Meetings.		20 Is that the Tates that we are talking 21 about in paragraph b?	
17 Q Always verbally?		22 A It is.	
18 A No. There were e-mails. There were 19 verbal meetings. There were meetings with Jeff Webb, 20 the Tobacco staff, Mr. Matlock and myself multiple 21 times. There were meetings with the Tates present. 22 There were meetings with outside vendors to bid on	146		148
1 the job present. It was discussed probably 15 times 2 in person and more times in e-mails.		1 Q And then the complaint continues, and 2 I'm reading on page five. "...the couple were close 3 personal friends of Agency Information Technology 4 Director Jeff Webb, and Webb had approved 111 hours 5 of overtime pay for the wife, between July and 6 November 2016..." and you say, "...plaintiff 7 complained about suspected fraud and abuse to Webb 8 and Matlock." How did you make that complaint?	
3 Q Well, you wanted to outsource that, 4 didn't you?		9 A Multiple times in meetings between 10 Mr. Matlock, Mr. Webb, Mr. Tolbert was usually 11 present in those meetings and myself. Oftentimes the 12 three ladies in the Tobacco Department would be 13 involved in these conversations.	
5 A There came a time when I felt like in 6 order to get the deadline met and the program 7 developed, that it was cheaper to outsource the 8 program. And the way we determined that was to have 9 a bid placed and a company place a bid to do the work 10 for around \$50,000 less than what we were paying the 11 Tates combined annually.		14 It was repeatedly announced, repeatedly 15 complained about that we could not get the 16 scholarship program out of the Tates so that we could 17 keep up to date in posting scholarship payments and 18 keeping the ledgers up on each individual student. 19 We attempted initially to buy a canned program. The 20 Tates volunteered to write it and they could have it 21 done within six months. Two years later it was not 22 finished.	
12 Q And was one of the vendors from whom 13 you sought a solicitation, was that Holston?			
14 A Holston IT.			
15 Q IT?			
16 A Uh-huh.			
17 Q Let me ask you this. Did you have any 18 personal or business connection with that entity?			
19 A I did not.			
20 Q Through any of your companies or 21 otherwise?			
22 A I did not.			

Transcript of William D. Carmack

38 (149 to 152)

Conducted on March 12, 2019

	149		151
1 I complained multiple times, and in		1 A Yes.	
2 several of those meetings where the Tates attended,		2 Q Consists of seven pages. What are	
3 Mrs. Tate admitted that she did not have the		3 those pages, Mr. Carmack?	
4 programming knowledge to do the work and was		4 A Time sheet requests for Elizabeth	
5 dependent upon her husband Barry, who was a full-time		5 Tate.	
6 employee with Crutchfield Corporation, to do the work		6 Q Who was one of the people at issue?	
7 on his own time.		7 A Most of them are issued to Debbie	
8 And Barry became very upset every time		8 Hensley from Duffy Carmack.	
9 we questioned his wife's work. He became very angry,		9 Q And let's look at the first sheet.	
10 and directed that anger toward me. And Barry was		10 That is August 11 of 2016. That e-mail was sent from	
11 always defended by Mr. Webb in these meetings;		11 you to Deborah Hensley?	
12 however, I will add one caveat. When Mr. Webb and		12 A That's correct.	
13 Mr. Matlock and Mr. Tolbert and I met without the		13 Q We mentioned her name several times.	
14 Tates, Mr. Webb agreed that Ms. Tate did not have		14 Did Ms. Hensley work for you?	
15 those skills but Mr. Tate, did and we probably would		15 A She did.	
16 be better off to look at outsourcing and what it		16 Q What was her title?	
17 would cost.		17 A Business manager.	
18 He also had concerns from a compliance		18 Q All right. And she reported to you	
19 standpoint that that data that belonged to the		19 some of Elizabeth Tate's overtime. This particular	
20 Tobacco Commission was actually being housed on		20 one, this first sheet on Exhibit 91, is for \$182.08;	
21 servers inside the Higher Ed Center. He wanted to		21 is that correct?	
22 get that off into the cloud base, and he needed		22 A That's correct.	
	150		152
1 someone else to do that because the Tates didn't have		1 Q And Ms. Hensley is saying to you,	
2 that, quote, expertise. Mr. Tolbert and Mr. Webb		2 Elizabeth has \$182.08 in overtime pay for pay period	
3 agreed to outsource that to Holston IT.		3 16. Please approve. And then right above that is an	
4 Q Going back to -- and that is all in		4 e-mail you sent, approved by William D. Carmack on	
5 that paragraph b, and thank you for expanding on		5 11/16?	
6 that. One of the issues that you had was when Webb,		6 A Correct.	
7 we read it before, Webb had approved 111 hours of		7 Q So you were aware of this overtime?	
8 overtime pay. Plaintiff complained about suspected		8 A I was aware that it was a continuing	
9 fraud and abuse to Webb and Matlock. That		9 process or issue problem.	
10 happened?		10 Q Okay. And approved it on that time	
11 A I'm sorry. Who complained?		11 period?	
12 Q Plaintiff. I'm assuming plaintiff is		12 A Yes. This was what gave me the	
13 William D. Carmack?		13 awareness of it.	
14 A Yes. I just didn't understand your		14 Q Okay. And let's go to the second,	
15 word, yes.		15 sheet two, which is an e-mail from you to Ms. Hensley	
16 MR. KINCER: Okay. There you go.		16 dated August 25th of 2016?	
17		17 A Uh-huh.	
18 BY MR. KINCER:		18 Q And I'm not going to read it all but,	
19 Q Okay. Take a look at this. That will		19 again, that's some more overtime for Elizabeth, and	
20 be 91?		20 she is, Ms. Hensley is asking you to approve that	
21 A Uh-huh.		21 overtime. And you write Ms. Hensley at 2:08 p.m. and	
22 Q See if you can identify that?		22 it says, "Overtime for Elizabeth Tate is approved for	

Transcript of William D. Carmack

39 (153 to 156)

Conducted on March 12, 2019

	153		155
1 pay period 17." Did you write that?		1 "Approved E. Tate, six hours overtime," signed	
2 A Yes.		2 Duffy?	
3 Q All right. So you approved another pay		3 A That's correct.	
4 period of Tate's overtime?		4 Q So there are six instances during the	
5 A I did.		5 time period that you put in your OSIG report citing	
6 Q Sheet three, your e-mail of September		6 waste or fraud that you were not, you knew about, you	
7 9, 2016.		7 personally approved the expenditure?	
8 A Yes.		8 A Although I approved those expenditures,	
9 Q Is that another overtime request for		9 you need to also understand that Mr. Webb had been	
10 Elizabeth Tate?		10 the approver of the Tates' time. And in one of the	
11 A Yes.		11 conversations that Mr. Matlock and Mr. Webb and I	
12 Q Is that another overtime request that		12 had, sometime in July or August, about the Tates'	
13 you approved?		13 lack of performance and the fact that they did no	
14 A It is.		14 work for the Higher Ed Center, but worked exclusively	
15 Q Go to the October 10, 2016 e-mail. And		15 for the Foundation side, Mr. Matlock suggested that	
16 this is a request for \$564.43 in overtime pay for		16 the Tates report to me. And so I began signing their	
17 Ms. Tate, please approve. And you wrote her back,		17 time sheets at that point.	
18 approved overtime for Elizabeth Tate?		18 Prior to that I had no awareness of how	
19 A That's correct.		19 much overtime was being incurred. As the Fall	
20 Q Okay. Let's go to the next e-mail in		20 progressed, Mr. Matlock and Mr. Webb decided that if	
21 Exhibit 91. It's a October 26, 2016 e-mail from		21 the Tates continued to report to me and was held	
22 Duffy Carmack to Deborah Hensley. Overtime for		22 accountable for their work, that they would quit or	
	154		156
1 Elizabeth Tate in the amount of the \$728.30 is		1 they will take their data that they created and	
2 approved; is that correct?		2 leave, and we would be without a system. So	
3 A That's correct.		3 Mr. Matlock made the decision to turn the approval	
4 Q You wrote that? You approved that?		4 back over to Mr. Webb at the first of the year.	
5 A I did.		5 So it was that quarter of approving	
6 Q And let's go to your e-mail for		6 time sheets that I realized it was an ongoing,	
7 Wednesday, November 9, 2016, pay period 22. That's		7 regular basis of overtime, and made the inquiry of	
8 Ms. Hensley also asking you to approve 20 hours of		8 Ms. Brooks as to the total we paid since July.	
9 overtime pay?		9 Q And thus cited as potential fraud and	
10 A Correct.		10 abuse overtime that you had approved?	
11 Q And you just simply wrote back a one		11 A It was entirely fraud and abuse for	
12 word reply, approved?		12 anything the Tates was paid when matched to	
13 A Correct.		13 production.	
14 Q And we will go to the next, number 6 in		14 Q All right. Go to page 7 of Exhibit 88,	
15 Exhibit 91. It's a November 21, 2016 e-mail.		15 which is the Amended Complaint. And I'm looking at,	
16 "Elizabeth had 20 hours of overtime for pay period		16 I'm looking at number or letter little h. at the	
17 23. Please approve." And you wrote Ms. Hensley		17 bottom of the page there that begins, "When Matlock	
18 back, "approved OT, Elizabeth Tate," correct?		18 worked at Virginia Highlands Community College, the	
19 A Correct.		19 college hosted a fundraiser," and it continues on,	
20 Q And the last one is pay period 24,		20 "When Matlock was hired at the Center, he wanted the	
21 December 6, 2016 and that was approving six hours of		21 fundraiser to be hosted by the Center. He and the	
22 overtime for Elizabeth Tate and you wrote back,		22 Community College had disputes about the issue."	

Transcript of William D. Carmack

40 (157 to 160)

Conducted on March 12, 2019

	157		159
1 Let me just ask you a discrete question 2 there. What kind of disputes about the issue? 3 A Mr. Matlock felt like that Richard 4 Leigh Songwriter Festival was an event that he 5 created and brought to the Community College. And he 6 felt like for it to continue that he should be 7 involved, and that in some manner that the proceeds 8 from that should also come to the Higher Ed Center 9 Foundation, in addition to the Community College.		1 what money was for, registration, sponsorship, 2 etcetera, for accounting purposes. If I need to send 3 them a letter for sponsorship, I will also need the 4 complete address. Thanks Alicia." Did you receive 5 that e-mail?	
10 Q All right. And if we can continue, "He 11 and the Community College had disputes about the 12 issue, but ultimately the college hosted the 13 fundraiser. Some of the proceeds of that fundraiser 14 though, have gone missing. Moreover, Matlock, six 15 months later, attempted to host his own Richard Leigh 16 fundraiser on behalf of the Center, but the proceeds 17 of that fundraiser never made their way to the 18 Center." Is that factually correct?		6 A I did.	
19 A To the best of my knowledge it is.		7 Q And are you on page two? I started -- 8 is there a page -- this prefaces -- this is a May 31, 9 2017 e-mail from Alicia dated Matlock and cc to Duffy 10 Carmack. Is that correct?	
20 Q All right.		11 A That's correct.	
21		12 Q And it says subject is the golf 13 tournament?	
22 (Discussion off the record)		14 A Yes.	
	158		
1 (Exhibit Number 91 and 92 were marked 2 for identification)		159	
3		160	
4 BY MR. KINCER:		1 knowledge?	
5 Q And I handed you an e-mail. Who's 6 Alicia Young?		2 A I had no knowledge of the golf 3 tournament. Mr. Matlock did not include Finance in 4 any of his projects. He did not, even though they 5 were operated under the Foundation name or the Center 6 name, no one from the Finance Department which would 7 have been myself, Debbie Hensley or Alicia, were ever 8 included in the planning. We had no idea it was 9 going on.	
7 A Alicia Young is the grant's director 8 and the financial administrator for the Foundation.		10 Therefore, when it came time to post 11 proceeds, whether it was a contribution toward the 12 event, from patrons at the door, expenses, we had 13 nothing, because we were not there or involved in 14 setting up the checks and balances of the event	
9 Q Did she work for you?		15 initially.	
10 A She did.		16 Q But you were copied on an e-mail 17 showing that funds were being accounted for?	
11 Q And I'm looking -- I think our exhibits 12 are straight. I'm looking at an exhibit, it's an 13 e-mail from Alicia Young to you dated June 19, 14 2017?		18 A I was copied on an e-mail where Ms. 19 Young was asking questions as to, you know, what's 20 the 560, and how do we get cash, because we didn't 21 usually see cash, how do we get cash to 22 Charlottesville?	
15 A Correct.			
16 Q Is the subject matter of this June 19 17 e-mail, is that explaining some proceeds from that 18 golf tournament and what she had done? "We bought a 19 money order with the cash that was given to me for 20 the golf tournament. I am not allowed to send cash 21 up to the UVA fund. Could you tell me how to process 22 the \$560? I will need who paid, the amount paid and			

Transcript of William D. Carmack

41 (161 to 164)

Conducted on March 12, 2019

	161		163
1 Q	All right. How do we get money from	1 Q	All right. So the fact that you didn't
2 this golf tournament to Charlottesville?		2 know about it, you felt shut out?	
3 A	Correct.	3 A	The entire Finance Department felt shut
4 Q	All right.	4 out, and complained to me about it.	
5	MR. KINCER: And I will keep you in	5 Q	So that allowed you to tell the
6 charge, next sequential exhibit.		6 Inspector General that funds had, quote, gone	
7		7 missing?	
8	(Exhibit Number 93 was marked for	8 A	We had no balance. We were not able to
9 identification)		9 balance the income and receipts or expenses.	
10		10 Q	And you don't know if that was done
11 BY MR. KINCER:		11 through...	
12 Q	I have handed you Exhibit 93, which is	12 A	My last conversation with Ms. Young was
13 some, again, e-mails from Alicia Young to David		13 that it was never in balance.	
14 Matlock, cc to Duffy Carmack, starting at 9:06 a.m.		14 Q	Is that by e-mail or was that...
15 And this e-mail reads, "David, I need to send up the		15 A	Just verbally.
16 fund from the golf tournament by Tuesday, June 27th		16 Q	Verbally. All right. Now, looking
17 for the year end. I will also need the expenses for		17 back at the Amended Complaint, number 88, and this	
18 the golf tournament by Tuesday to record them in FY17		18 is, this is f. That was not in your OSIG complaint,	
19 when the tournament was held. Thanks Alicia." Did		19 was it?	
20 you get copied on that e-mail?		20 MR. GRIMES: Objection; what is that?	
21 A	I'm listed as copied.	21 MR. KINCER: f, Sub-part f. I thought	
22 Q	Then if we go to the 9:08 a.m. e-mail	22 it would follow.	
	162		164
1	from David Matlock back to Alicia Young, copy to	1	MR. GRIMES: I thought you said that.
2	Duffy Carmack shown on Exhibit 93, it says, "How	2	Sorry.
3	about we meet around two o'clock today to finish that	3	THE WITNESS: I'm not following. I
4	up?" You were copied on that?	4	don't understand.
5 A	I was copied.	5	MR. GRIMES: Let's try this again.
6 Q	All right. So my question to you is,	6	It's confusing.
7	looking at your Complaint concerning the fundraiser	7	MR. KINCER: Confusing?
8	and some of the proceeds of that money has gone	8	
9	missing, what factual basis did you have to make that	9 BY MR. KINCER:	
10 allegation?		10 Q	You're looking at Exhibit 88. Look at
11 A	Based on comments that he made and	11 paragraph 14, little f on page 7.	
12 Sonia VanHook, who was another employee in the		12 A	Okay.
13 building who attended the golf tournament, as to how		13 Q	Was that one of the, was that one of
14 many people attended doesn't comprise the dollar		14 the issues that you raised or attempted to raise with	
15 amounts collected. And we did receive sponsorships		15 Inspector General that they told you to take the	
16 from some industry in the area, but no one was		16 complaint to DHRM?	
17 advised what was to do with that money, if it went		17 A	It is.
18 toward paying the country club or toward food or		18 Q	This is some artwork, meaning this is a
19 toward prizes. There was no communication to Finance		19 \$9,900 worth of artwork that was that mobile in the	
20 at all.		20 center lobby?	
21 Q	You didn't know about it?	21 A	That's correct.
22 A	No.	22 Q	Going back, this complaint in f. was

Transcript of William D. Carmack

42 (165 to 168)

Conducted on March 12, 2019

	165		167
1	that it had been removed?	1	of the Foundation?
2	A We come back from Christmas break and	2	A Oh, goodness. When I went to work
3	it's gone, right.	3	there she was chairman, and she served probably up
4	Q And you said in other dep -- you know	4	until 2000, maybe '16, '15, '16.
5	that it was back, correct? You know it is back,	5	Q Okay. We are still on Exhibit 88. Go
6	correct?	6	back to page four, paragraph 14, sub little a.
7	A Yes, I know it's back, uh-huh.	7	A Okay.
8	Q You also know that it was removed due	8	Q This is an invoice, Matlock's invoice
9	to repairs to the ceiling of the Center?	9	submitted for \$1,250 to reimburse a Virginia middle
10	A That's what I hear in deposition.	10	school for a robotics competition, correct?
11	Q All right. And do you personally have	11	A Correct.
12	any knowledge to the contrary, any facts to support	12	Q Tell me about that allegation.
13	any allegation to the contrary?	13	A Again, having no former knowledge that
14	A I never understood why the mobile was	14	any of the dollars from the Center or the Foundation
15	removed or missing for over a year.	15	were going to be spent -- and we did have budgets at
16	Q Okay. We will go to another OSIG	16	the Center that we tried to follow -- Foundation
17	complaint later, but staying on yours against	17	money was not particularly earmarked for any one
18	Mr. Matlock, did you, did you approve -- to the birth	18	project. He laid this invoice on Ms. Young's desk
19	of the mobile, did you approve this \$9,900	19	and asked that it be paid.
20	expenditure without seeking Board approval?	20	She brought it to me, and I found it
21	A This expenditure came through the	21	preposterous, actually, because, number one, the
22	Foundation, and the Foundation, in discussion, agreed	22	Higher Ed Center had long time been a proponent of
	166		168
1	that they wanted to put something in the building.	1	STEM, and that's Science, Education, Technology and
2	And a committee was created of Kathy Heitala, Joyce	2	Mathematics, particularly for girls. And it exposed
3	Brooks, myself, I think Marcia Gilliam, and we	3	young girls in southwest Virginia to jobs outside of
4	decided to do a piece of art and to also name a room,	4	the traditional female stereotype roles.
5	which we called a tiered executive auditorium, after	5	So for a number of years the Higher Ed
6	Dr. Fowlkes in recognition of her work there.	6	Center hosted a STEM competition called Lego
7	Q Well, did you have written authority to	7	Robotics. You had to have teams, like a church group
8	expend \$9,900 of Foundation funds for that mobile?	8	or cub scout team or home school team. It had to be
9	A I had verbal authority from the	9	a team of students that would come in to compete in
10	Foundation to do that.	10	these competitions. The problem that we had in
11	Q Okay. The Foundation is an artificial	11	southwest Virginia were finding adult sponsors of
12	entity. Who at the Foundation? What person at the,	12	these teams, because it's very time-consuming.
13	on the Foundation's behalf?	13	So the Higher Ed Center, through the
14	A It was discussed openly at Foundation	14	partnership with Virginia Tech, would always recruit
15	meetings. I don't know if it's in the minutes or	15	for adult leaders to create a team. And we would
16	not, haven't looked. It was approved.	16	usually pay for two to three of these adult leaders
17	Q Can you name at least one person who	17	to go to the State training in hopes that they would
18	conveyed information to you that that would be a fine	18	come back and create a Lego team. At no time in the
19	thing?	19	history of the Center had I ever known us to pay for
20	A Marcia Gilliam, who was the chairman of	20	students or a chaperone of students to go to a
21	the Foundation.	21	robotics competition.
22	Q And at which time was Gilliam chairman	22	Q All right. And you say, continuing in

Transcript of William D. Carmack

43 (169 to 172)

Conducted on March 12, 2019

	169		171
1	paragraph a. in the complaint, you state that, "When	1	factually?
2	questioned about this, Matlock stated that he had	2	MR. GRIMES: Objection to the form.
3	offered this to all schools in southwest Virginia.	3	What is that?
4	On information and belief, this is not true, and	4	MR. KINCER: What is that?
5	Matlock produced no evidence that he had, in fact,	5	
6	extended the offer to all the schools in southwest	6	BY MR. KINCER:
7	Virginia, and it is improbable that only his son	7	Q Any of the conjecture, and it seems
8	accepted the offer."	8	ironic to me, leaving the irony and the information
9	Would you go back to the OSIG report,	9	and belief of your complaint aside, what facts do you
10	Exhibit 90 please, on page two of five? And this is	10	have that this was any particular program that others
11	allegation three.	11	were not eligible for had they applied?
12	A Oh, I'm sorry. On the OSIG report?	12	A The fact is I have never seen the offer
13	Q Yes, sir. Has the seal?	13	made to any other school.
14	A Okay.	14	Q All right. And you thought that was
15	Q And Inspector General addressing that	15	enough information to warrant the OSIG complaint?
16	issue recites the basic allegation that we talked	16	A Yes, I do.
17	about. And the finding of fact to that allegation	17	Q All right. And you first discovered
18	that you made was that the OSIG reviewed records	18	that in -- did you discover that soon after the
19	related to the robotic support for FY2014 through	19	disbursement was made in 2016, December 2016?
20	202017. The disbursement summary shows the school	20	A Yes.
21	referred to above received support in FY2017 only.	21	Q All right. Look on -- go back to the
22	22 Altogether, for the four fiscal years, disbursements	22	Amended Complaint, paragraph 88, and look at
	170		172
1	exceeded \$22,000 for 22 items, including for six	1	sub-section, page five, little d. as in dog?
2	other schools.	2	A Uh-huh.
3	A Correct.	3	Q And this complaint, this complaint was
4	Q Could you not have found that out, that	4	not in the OSIG report, was it, the Joe Mitchell,
5	information, not only the information and belief, but	5	hired a long-time friend to work as maintenance
6	on factual inquiry before filing a report with the	6	supervisor?
7	Inspector General?	7	A That's one of my 16 items that I
8	A The \$22,000 for 22 items was not to pay	8	submitted to OSIG.
9	for teams of schools for children to go to	9	Q That was not included in the final
10	competitions; it was to pay for adults from various	10	report?
11	localities to attend trainings to set up school	11	A Correct.
12	teams.	12	Q All right. And what I want to ask you
13	Q So do you have any factual information	13	about is, you say that Matlock, A, he hired one of
14	that that was, that that was any private, private	14	his long-time friends, Joe Mitchell. By his friends,
15	deal with, with that particular school?	15	you mean Matlock's friend?
16	A It appears ironic to me that his son is	16	A Correct.
17	the middle school principal there. And also having	17	Q Well, he was your long-time friend too,
18	lived and worked in southwest Virginia for 50 years	18	wasn't he?
19	and knowing how poor the school systems are, if the	19	A He was a long-time acquaintance that I
20	Higher Ed Center offered 1,200 or \$1,500 to each	20	knew, did business with in the banking business. He
21	school, I can't imagine anyone not taking it.	21	was one of my customers, no one I knew on an intimate
22	Q But you don't know any of that	22	or friendly basis.

Transcript of William D. Carmack

44 (173 to 176)

Conducted on March 12, 2019

	173		175
1 Q	And you say that, "Matlock hired	1 T here was not an Interview Committee at the time they	
2 Mitchell as a quote, 'wage' employee, without being		2 h ired him in a wage position.	
3 interviewed by selection committee as required by		3 Q Did you make that clear in your	
4 Agency policy, then added him as a full-time employee		4 complaint?	
5 in July 2017."		5 A To OSIG?	
6 So even though that was one of the		6 Q Yes?	
7 allegations not addressed by OSIG for the reasons		7 A As clear as I could make it.	
8 that you have stated before, that was one of the		8 Q All right.	
9 allegations that you made, you felt warranted in		9 MS. HADDOX: Do you know the Bates	
10 making to the Inspector General?		10 stamps for Exhibit 94?	
11 A Correct.		11 MR. HARDY: I'm sure it requests, ask	
12 MR. KINCER: That is the next exhibit.		12 for it, but I'm not finding it in the ESI that	
13		13 we produced.	
14 (Exhibit Number 94 was marked for		14 MS. HADDOX: Okay.	
15 identification)		15	
16		16 BY MR. KINCER:	
17 BY MR. KINCER:		17 Q Earlier this morning I think we	
18 Q Would you take a look at Exhibit 94,		18 discussed it's your recollection that you had, when	
19 Mr. Carmack. Is that an e-mail from you to Joyce		19 you first registered to vote in Washington County,	
20 Brooks?		20 Virginia -- this was when you were a teen, correct,	
21 A It is.		21 or thereabouts?	
22 Q She was in HR?		22 A Correct.	
	174		176
1 A She was.		1 Q -- that you registered as a Democrat?	
2 Q And you copied David Matlock on that,		2 A Yes.	
3 didn't you?		3 Q Do you consider yourself to be a	
4 A I did.		4 Democrat?	
5 Q And the subject of this e-mail was		5 A I do.	
6 Interview Committee?		6 Q Okay. But I think you also told us	
7 A Correct.		7 about Dr. Fowlkes' fairly even keeled, non-partisan	
8 Q And you say in this e-mail dated March		8 status, that there is Democrats and Republicans, and	
9 31, 2017, "Joyce, I received a notice that I have		9 we get along with everybody, words to that effect?	
10 been selected to participate on an Interview		10 A Correct.	
11 Committee. Normally I am glad to participate in		11 Q Well, in your professional career at	
12 this; however, I have known Joe personally for many		12 the Center and in business in general, do you think	
13 years and do not feel it would be fair to participate		13 it's wise to hedge your bets politically?	
14 in this selection process. Thanks. Duffy."		14 MR. GRIMES: Objection. What does that	
15 A Correct.		15 mean?	
16 Q All right. So whether, despite		16	
17 whatever the status of Joe was to you, whether a good		17 BY MR. KINCER:	
18 friend or a business acquaintance or someone you had		18 Q Do you think it's wise to support both	
19 known, you were aware, when you made that OSIG		19 political parties, at least nominally?	
20 complaint, that there was an Interview Committee?		20 MR. GRIMES: Same objection.	
21 A There was an Interview Committee at the		21	
22 time they were looking to fill the job permanently.		22	

Transcript of William D. Carmack

45 (177 to 180)

Conducted on March 12, 2019

	177		179
1 BY MR. KINCER:		1 fundraiser for Speaker Howe?	
2 Q By cash financial contributions?		2 A That's what this pertains to, yes.	
3 MR. GRIMES: Same objection. Go ahead		3 Q Okay. And let's go to the front of	
4 and answer the question, subject to objection.		4 Exhibit 95. And who is Christie Heath?	
5 THE WITNESS: Do I feel like it's okay		5 A I have no idea.	
6 to send cash to either party?		6 Q Okay. Well, this is an e-mail from	
7		7 Christie Heath, November 10, 2014, to Duffy Carmack,	
8 BY MR. KINCER:		8 and it says Re: RSVP - Pillion. And she is	
9 Q Uh-huh.		9 apparently responding to you because you write at the	
10 A I do.		10 bottom, "Christie, I will be attending the reception	
11 Q And you have?		11 for Todd Pillion on Wednesday, November 12. I will	
12 A Yes.		12 bring a check for Todd's friends with me that	
13 MR. KINCER: Next exhibit.		13 evening. Thanks, Duffy Carmack."	
14		14 A Uh-huh.	
15 (Exhibit Number 95 was marked for		15 Q Is this Delegate Pillion?	
16 identification)		16 A Yes, it is.	
17		17 Q Is this Republican Delegate Pillion?	
18 BY MR. KINCER:		18 A Yes, it is.	
19 Q We will start on Exhibit 95 on the		19 Q All right. And did you attend this	
20 second page, and this is an e-mail from Rachel		20 fundraiser?	
21 Fowlkes to Duffy Carmichael dated December 17, 2013.		21 A I sent money. I have no idea whether I	
22 And this is the forward, Speaker Howell Reception.		22 went or not.	
	178		180
1 Who's Speaker Howell? Or who was Speaker Howell in		1 Q Okay. But you sent money?	
2 October of 2013?		2 A Sure.	
3 A I have no idea, but I would make the		3 Q All right.	
4 assumption he was speaker of the house.		4 MS. HADDOX: Just for the record,	
5 Q All right. And Rachel is asking you,		5 Exhibit 95, neither e-mail was produced in	
6 "Duffy, I can't tell if we can attend free or if we		6 discovery.	
7 have to pay a lot of money. Obviously, this is a		7 MR. HARDY: Nor were they asked, would	
8 fundraiser. I'm thinking we should not go, but will		8 be our position.	
9 rely on your judgment. Perhaps Joe Johnson can		9 MS. HADDOX: I'm just making a record.	
10 advise us what we should do." Who's Joe Johnson?		10 I don't have before me all the discovery	
11 A Joe Johnson is a former member of the		11 requests. I can look at it later. For the	
12 House of Delegates. He's an attorney. He is on the		12 record, neither e-mail in Exhibit 95 was	
13 Board of Trustees of the Higher Education Center.		13 produced.	
14 Q Is he a Democrat or Republican?		14 MR. KINCER: So the best thing for us	
15 A He always ran on the Democratic		15 to do is just to move on.	
16 ticket.		16 MS. HADDOX: Which would be the	
17 Q Does he still do that?		17 definition of making a record.	
18 A I have no idea. He's retired.		18	
19 Q Okay. And you respond to Rachel		19 BY MR. KINCER:	
20 Fowlkes' e-mail, "I will RSVP today! I will talk to		20 Q Mr. Carmack, you told me that you did	
21 you at 1:30 on the conference call."		21 not have to file a -- that you had not -- strike	
22 So you and Ms. Fowlkes are going to a		22 that.	

Transcript of William D. Carmack

46 (181 to 184)

Conducted on March 12, 2019

	181		183
1 Mr. Carmack, you told me that you had		1 disclosures that you list, are they accurate?	
2 nothing in writing concerning the Center's knowledge		2 A No.	
3 of your Carmack Health Management, that it was,		3 Q Why not?	
4 everyone knew you were doing that and it was fine		4 A Because I didn't work at the Southwest	
5 with them and there was going to be no contracts?		5 Virginia Higher Ed Center January the 31st, 2018; I	
6 A That's correct.		6 had been terminated.	
7 Q When you were hired as CFO?		7 Q Well, you were no longer in their	
8 A Correct.		8 employ, were you?	
9 Q All right. During your time either in		9 A I was no longer in their employ, and I	
10 state government or as a citizen appointed in state		10 also resigned from the Virginia Solar Authority,	
11 government, have you ever filed any conflict of		11 because that appointment was made because of my work	
12 interest statements?		12 with Solar Energy Center, Research and Development	
13 A Yes, I have.		13 Center, and it was connected and I resigned.	
14 Q How many do you recall filing?		14 Q When did you resign?	
15 A Several years' worth. I have served on		15 A I would have to look at the letter of	
16 various public boards and authorities.		16 resignation. It was sometime in January of 2018	
17 Q What authorities have you served on?		17 following the termination.	
18 A Most recently, the last ten years, I		18 Q Okay. Well, why did you even file a	
19 have been Chairman of the Board of Zoning Appeals for		19 Virginia Conflict of Interest Disclosure?	
20 Washington County, Virginia.		20 A It came to me in the mail.	
21 Q All right. What about insofar as a		21 Q And you filed it even though you were	
22 state office?		22 no longer working there?	
	182		184
1 A I was appointed by the governor to the		1 A I sent it back in to them.	
2 Virginia Solar Authority.		2 Q And you knew that you had already	
3 Q All right. Let me make sure I have the		3 resigned from the Solar Authority?	
4 right date. Yeah.		4 A I was going to resign from the Solar	
5		5 Authority before their next meeting.	
6 (Exhibit Number 96 was marked for		6 Q Which was when?	
7 identification)		7 A In February.	
8		9 (Exhibit Number 97 was marked for	
9 BY MR. KINCER:		10 identification)	
10 Q Mr. Carmack, I have handed you Exhibit		11	
11 96. Take your time to look at that.		12 BY MR. KINCER:	
12 A Uh-huh.		13 Q Have you had a chance to review that	
13 Q Do you know what it is?		14 document?	
14 A It's a conflict of interest		15 A Yes.	
15 statement.		16 Q What is Exhibit 97?	
16 Q And was this the one electronically,		17 A Conflict of Interest and	
17 that purports to be electronically signed by you 1/31		18 Ethics Advisory Council Financial Disclosure	
18 of 2018?		19 Statement.	
19 A Yes.		20 Q Similar document to the prior	
20 Q And if you would take a moment to look		21 exhibit?	
21 that over. At least as of the time that you signed		22 A Yes.	
22 this Conflict of Interest, is the, are these			

Transcript of William D. Carmack

47 (185 to 188)

Conducted on March 12, 2019

	185		187
1 Q	And what date does this show that you	1 for Carmack Health Care, that was, that would have	
2 electronically signed it?		2 been a profit?	
3 A	There is no date that I see by the	3 A	Yes, it would have been.
4 signature.		4 Q	After expenses?
5 Q	It's on the next to the last page on	5 A	Sure.
6 the bottom?		6 Q	Sure. And how much were you making
7 A	January 11, 2017.	7	from the health management company in 2017?
8 Q	All right. You were still employed	8 A	It's always been the same amount. It's
9 with the Southwest Virginia Higher Ed Center?		9	a contract. It never changes.
10 A	I was.	10 Q	Thank you. That will save us both.
11 Q	All right. Were you still the sole	11	It's always been 95,000 a year?
12 owner of Carmack Health?		12 A	Correct.
13 A	Yes, I was.	13 Q	And so it's fixed rate, just whatever
14 Q	Is that listed on this form?	14	comes your way you do. And if a lot comes your way,
15 A	It is not.	15	and if a little comes your way, you come out?
16 Q	Why not?	16 A	Right.
17 A	It's an omission, just an error.	17 Q	Okay. Thanks for clearing that up.
18 Q	What prompted your recall a year later	18 A	I might add one other thing for the
19 when you filed the 2018 disclosure where Carmack is		19	record to help with that.
20 listed?		20 Q	Okay.
21 A	I try to always be open and truthful on	21 A	Having a secondary job was commonplace
22 every form I fill out. I guess it came to my mind		22	at the Higher Ed Center. Mr. Matlock had one. Adam
	186		188
1 when I was filling it out. I didn't think about it		1 Tolbert had one. Sonia VanHook had one. It was all	
2 the previous year. Sometimes I'm in a hurry filling		2 done on State time, so the standard had already been	
3 them out, sometimes I'm not.		3 established.	
4 Q	It did not come to your mind that you	4 Q	That's why they call them discovery
5 remained the sole owner of Carmack Health		5 depositions. What job did Mr. Matlock had?	
6 Management?		6 A	Counseled adolescents from his
7 A	No, because it's very secondary in my	7	church.
8 life. My primary employment was Southwest Virginia		8 Q	Excuse me?
9 Higher Ed Center.		9 A	Counseled adolescents from his
10 Q	Well, let's go back from -- let's see,	10	church.
11 you, in 2000, in 2014, for example, you were, in that		11 Q	What is that job?
12 fiscal year, you were a CFO at the Center?		12 A	It means that some parents brings their
13 A	Correct.	13 teenage son or daughter into the Higher Ed Center.	
14 Q	All right. Well, how much income did	14 They wait in the foyer. The child goes into his	
15 you make from your health care consultancy?		15 office and the door is closed for counseling.	
16 A	\$95,000.	16 Q	All right. Do you know if he makes any
17 Q	All right. And what was your salary	17 money off that?	
18 for the, for your services as CFO?		18 A	He has made comment that he's a paid
19 A	Base probably 105, benefits probably	19 youth minister, so I assume so.	
20 147.		20 Q	Okay. Go ahead. Okay. You finished?
21 Q	Right. But does -- and when you were	21	What does Adam do in his part?
22 giving me the 95,000 figure for the health care work,		22 A	Adam has taught for Old Dominion

Transcript of William D. Carmack

48 (189 to 192)

Conducted on March 12, 2019

	189		191
1 University on-line. He has done a lot of work for		1 Q And were you working at the Center at	
2 the Republican party -- I don't know that he's paid		2 that time?	
3 for it -- on-line during Center time. And		3 A I was.	
4 Ms. VanHook has taught for Savet, which is the		4 Q And this continues. This is how many?	
5 Governor's School.		5 This is seven of seven pages after we get past the	
6 Q You don't know whether or not any of		6 e-mail introduction. It's attorney/client privilege.	
7 those jobs have paid them \$95,000?		7 Is this from an attorney, the attorney/client	
8 A I don't know what they were paid, but		8 privilege document starting on page one of seven?	
9 they were paid.		9 A Yes, uh-huh.	
10 Q During your, let's say, last year of		10 Q And what is this document? What is	
11 employment at the Center, what were your work hours?		11 this seven page document?	
12 A My normal work hours coming to the		12 A Well, this seven page document came	
13 Center -- the standard hours the Center is open is		13 about as a result of the -- there are three LLCs that	
14 basically, I'm going to say, 7:00, 7:30 in the		14 make up the surgery center group, and there was a lot	
15 morning to nine or ten o'clock at night, because we		15 of questions about changes to the management	
16 host all kind of students that go to night school and		16 agreement and trying to renegotiate leases with the	
17 public events. Standard office hours were either		17 hospital. And this started back before I began with	
18 eight to four or nine to five.		18 the hospital, began with the surgery center.	
19 Q During those standard office hours that		19 Discussion started in 2012, early in	
20 you were there, approximately how much time, how much		20 the year and continued out. Takes a long time to	
21 time would you spend on working for your outside		21 finalize items with the hospital, but we finally got	
22 interests?		22 the leases negotiated.	
	190		192
1 A Meaning Carmack Health?		1 Q Okay. All right. And this was sent to	
2 Q Yes, sir. Unless there is more for		2 you at 9:38 a.m.?	
3 profit?		3 A Yes.	
4 A Probably two hours a week.		4 Q All right. And then if we can continue	
5 Q How much?		5 through here, and I'm not reading it all. But it	
6 A Two to three hours a week.		6 seems like there is some, an auditor asking questions	
7		7 about expenditures --	
8 (Exhibit Number 98 was marked for		8 A Yes.	
9 identification)		9 Q -- for one of the practice groups.	
10		10 Were you to review that?	
11 BY MR. KINCER:		11 A That was an auditor for the hospital	
12 Q Take a look at that document and let me		12 that was auditing the hospital's books. And these	
13 know when you're through with that, Mr. Carmack.		13 were items that had been paid under the management	
14 A I'm very familiar with it.		14 company, which is one of the LLCs of the surgery	
15 Q I have handed you Exhibit Number 98.		15 center. And they wanted to know -- there was missing	
16 Who is Amberlea Breeding?		16 documentation or receipts. So we resubmitted those	
17 A I have no idea.		17 to satisfy the audit requirement.	
18 Q At firstbank.com?		18 Q And it was part of your \$95,000 a year	
19 A I have no idea.		19 contract to review documents like this?	
20 Q Okay. Is that an e-mail from her to		20 A Sure.	
21 you dated 9/5 of 2012?		21 Q And that was sent to you on a workday	
22 A It is.		22 at 9:38 in the morning?	

Transcript of William D. Carmack

49 (193 to 196)

Conducted on March 12, 2019

		193		195
1	A	Uh-huh.		
2	Q	Did you look at it while you were at		1 patients to your work e-mail?
3		work?		2 A I can't say they didn't. I don't
4	A	I'm sure I read it.		3 recall any, but the doctors knew my Duffy Carmack
5	Q	All right.		4 address, also knew I worked at the Higher Ed Center.
6		MR. KINCER: Make that the next exhibit		5 So I can't say some of them didn't address it to
7		please.		6 Higher Ed.
8				7
9		(Exhibit Number 99 was marked for		8 (Exhibit Number 100 was marked for
10		identification)		9 identification)
11				10
12	BY MR. KINCER:			11 BY MR. KINCER:
13	Q	What is that document, sir?		12 Q I have handed you Exhibit 100, which
14	A	At the end of the year the		13 starts as an e-mail from Duffy Carmack to Deborah
15		distributions of the company are made to the		14 Hensley, dated October 23, 2013. First of all, who
16		physicians, and so the accounting firm that does the		15 is DPB?
17		work is Brown Edwards and Company. And this is a		16 A Department of Planning and Budgeting.
18		letter from Betty Jessee to me where she had		17 Q All right. And Deborah Hensley is your
19		calculated the year-end distributions for the		18 employee?
20		physicians.		19 A Yes.
21		And she had -- actually, her		20 Q You shared your log-in passwords with
22		administrative assistant lived in Abingdon. And just		21 your --
				22 A Debbie was very knowledgeable in IT,
				196
1		out of courtesy, they usually dropped things by the		1 and sometimes I struggle, and I would have to get her
2		front desk for me to pick up instead of paying		2 to help me connect to the various programs that I
3		postage.		3 didn't use every day.
4	Q	All right. Well, if I go back to the		4 Q At the time you worked here in 2013,
5		first page of Exhibit -- that is 99 that you have in		5 are you familiar are State VITA policy?
6		your hand. If I go back to the first page, I have		6 A Yes.
7		duffycarmack@hotmail.com?		7 Q Should you share your passwords?
8	A	Uh-huh.		8 A You shouldn't.
9	Q	What's the hotmail.com address?		9 Q You did?
10	A	That is my personal e-mail address.		10 A I could have changed it.
11	Q	Well, why do you use that for all your		11 Q All right. Now, go to the very, go to
12		outside business?		12 the very last two pages of Exhibit 100. I want to
13	A	That's the only address I have other		13 look at that one. I asked you earlier about HIPAA.
14		than the Higher Ed Center address that I used. There		14 A Uh-huh.
15		may be old ones out there, but I don't remember the		15 Q And this e-mail is from Robin Justice.
16		names of them.		16 Who's msha.com?
17	Q	All right. Are you familiar with		17 A Mountain State Health Alliance.
18		HIPAA, H-I-P-P-A (sic)?		18 Q Is that one of your clients?
19	A	I am familiar.		19 A No. That's -- Johnston Memorial
20	Q	During the period of time that you		20 Hospital was purchased by Mountain States Health
21		worked at the Center, would your various medical		21 Alliance, who has now been purchased by Ballad
22		clients send you HIPAA-sensitive information on		22 Health.

Transcript of William D. Carmack

50 (197 to 200)

Conducted on March 12, 2019

	197		199
1 Q	Looking at this, and I see it's the	1 It's talking about Debbie Ringley of	
2 last addressee here is Duffy Carmack, and that's at		2 BTS Security, and she's sending you an e-mail to your	
3 your southwestcenter.edu address?		3 Center address and telling you this is past due?	
4 A Yes.		4 A Correct.	
5 Q That's your work e-mail?		5 Q And what is this invoice for?	
6 A It was.		6 A It is for the burglar alarm line that	
7 Q It was? Now, I asked you earlier about		7 houses or transmits fire, smoke, burglar, whatever,	
8 HIPAA, and you said you were knowledgeable with it.		8 at the Energy Center.	
9 And I'm not going to read these names, I will give		9 Q All right. And let's see, this e-mail,	
10 some initials. If Exhibit 100 is to ever find its		10 this e-mail is July 26. When was this work done,	
11 way into the Court, I would recommend redaction.		11 back in --	
12 Tell me this. Looking at the, after		12 A I don't know because it went to the	
13 the good morning, and then the list of patients --		13 attention of Eddy Sproles, who was the Director of	
14 A Uh-huh.		14 Maintenance. Eddy took care of all these invoices.	
15 Q -- do you think this patient should		15 He had two really rough years in and out with health.	
16 know, this should be going to your work address, that		16 When he was not there, often these items would be	
17 she's having this surgical procedure and that one is		17 sent to me. When he was there, he would take care of	
18 having that one, and that one is having that one?		18 them. So that's all I know about it.	
19 Isn't that privileged information? Isn't that		19 Q And I think that, if I recall your	
20 protected health information?		20 earlier testimony, I think that you, really his	
21 A Robin Justice is the manager of the		21 department was under your bailiwick?	
22 surgery center, and this was an e-mail that		22 A For a very, I'm talking three month	
	198		200
1 Dr. McGarry had sent to her regarding scheduling		1 period of time; otherwise, he was under the	
2 conflicts or, I'm going to say, canceled cases		2 department of Joyce Brooks as operations.	
3 because of issues with anesthesia. So he was going		3 Q And under the CAPPs, C-A-P-P-S, you	
4 through these with her and he simply copied me on it		4 would agree that it's not good for a State agency to	
5 just so I was FYI, as the business administrator,		5 have an invoice that's overdue?	
6 that this was an issue.		6 A I don't think any agency should have an	
7 So I consider the fact that e-mails		7 invoice that's overdue.	
8 between the physicians and myself or the physicians		8 Q All right.	
9 and Robin are proprietary e-mails.		9 A A lot of things went to Eddy's e-mail	
10 Q Even if sent to a Commonwealth of		10 and set there because no one was looking at it.	
11 Virginia work address?		11 Q Okay. Turn back to -- all right. This	
12 A Yes. That's not good judgment, but I		12 is on Exhibit 100, and this will be page three of	
13 didn't make the choice to send it across that.		13 five. And it's an e-mail from Duffy Carmack to	
14 Q You didn't send that e-mail to		14 Deborah Bourne Re: Health Fair Wednesday, dated	
15 yourself, someone sent it to you?		15 September 16 of 2014.	
16 A Correct, uh-huh.		16 And we are talking about fair, and then	
17 Q Okay. All right. Now, go to the next		17 I'm going to the next page, which says page one of	
18 document and it's from the back. We are doing the,		18 two. Who is Rod Harper?	
19 looking at the HIPAA stuff. Look at the finance		19 A On page? I'm sorry what page are you	
20 charge and an invoice and then an e-mail, Duffy		20 on again?	
21 Carmack, Wednesday 7/26/17, 10:48 a.m., two		21 Q Page one of two. I just gave you	
22 attachments.		22 the -- I keyed you to the page three of five because	

Transcript of William D. Carmack

51 (201 to 204)

Conducted on March 12, 2019

	201		203
1	that looked pretty obvious. Next one is the Energy	1	language of grant agreement. You have 36 months
2	Center, says Energy Center.	2	following the end of the grant.
3	A Okay. I will get there.	3	Q Go back to the first of Exhibit 100,
4	Q Are you there?	4	and go to the third page of that exhibit.
5	A Two of five? Okay.	5	A Uh-huh.
6	Q Do you have that now?	6	Q Oh, I'm sorry, Mr. Carmack, the second
7	A I have page one of two that has Rod	7	page. And this is Hanging Display Systems, from Miss
8	Harper's name on it.	8	Yanick Cusson. Do you know who she was?
9	Q Who's Rob Harper?	9	A I do not.
10	A He worked for Bristol Sign.	10	Q This is an August 21, 2014 e-mail, and
11	Q And what is Bristol Sign? What did	11	Ms. Cusson is writing you telling you your order will
12	Bristol sign do for the Center?	12	be shipped out tomorrow, delivered in four business
13	A What did they do for the Center?	13	days starting Monday, at One Partnership Circle in
14	Q What did they do, uh-huh.	14	Abingdon. That's the Center's address, isn't it?
15	A I assume they made signs.	15	A That's right.
16	Q All right. Well, what I'm interested,	16	Q And did she also give you an FYI,
17	17 is Rod Harper to you, copy Alicia Young, January 18,	17	quote, "As a person working in the, quote,
18	18 2016. "Duffy, regarding your call today, 11/8/16,	18	'E-commerce', I would recommend not sending a credit
19	19 the signs will be installed next week. They are	19	card number in an e-mail as it is not safe. Smiley
20	20 getting close to completion. Also, the invoice will	20	face. Sideways smiley face."
21	21 be dated for last year as you require. If you need	21	A Uh-huh.
22	22 to have it in hand sooner, let our bookkeeper know	22	Q Did you send -- you just sent a credit
	202		204
1	1 that she needs to send it over to Alicia Young."	1	card number, if we look below there, and that's from
2	Well, why are you asking him to prepare	2	Duffy Carmack to that business with all the
3	3 you back-dated invoices?	3	expiration date, the number, everything, over
4	A Yes. When we built the Energy Center,	4	unencrypted e-mail.
5	we put this very large sign that you could read from	5	A The e-mails from our center were
6	the Interstate with the logo of the Higher Ed Center	6	encrypted.
7	on it. And when we rented the building commercially,	7	Q Okay. How did she -- that was not in
8	I needed Rod to take that down. And the Tobacco	8	compliance with State policy, was it?
9	Commission grant that funded the Energy Center, you	9	A Went across a State computer. I gave
10	have three years to close a grant out.	10	the credit card out all the time to vendors that
11	And so we had some excess funds that	11	asked for it. It's my understanding from IT that
12	the Commission had asked us to hold onto, because	12	everything that went across our Center was encrypted,
13	when we built the building it was a shell, and we	13	and the receiver on the other end, she was able to
14	knew that there would be finishing work to be done.	14	get it. She got it. It was not uncommon. I give my
15	And so when it was rented commercially, we needed to	15	personal credit card for everything I order on-line
16	pay to have our sign taken off the building. And so	16	today. It was commonplace then, too.
17	the Tobacco Commission asked that it be back-dated to	17	Q So you don't think there's anything
18	the previous year so they could run it through the	18	wrong with that?
19	balance of that grant money.	19	A Not a thing.
20	Q That's probably not CAPPS approved, is	20	Q All right.
21	21 it?	21	MR. GRIMES: Counsel, we have been
22	A It probably would according to the	22	going an hour-and-a-half. Let's take a

Transcript of William D. Carmack

52 (205 to 208)

Conducted on March 12, 2019

	205		207
1	comfort break.	1	some scathing e-mail that I wasn't responding to the
2	MR. KINCER: Let's do. Thanks.	2	questions she asked, so on and so forth.
3		3	I hadn't received any e-mails from her.
4	(A recess was taken)	4	I went back and looked at my e-mails, tried to
5		5	research what the problem was. Elizabeth traveled a
6	BY MR. KINCER:	6	great deal. I called. I left her a voice message.
7	Q Mr. Carmack, looking at number, Exhibit	7	Couple days later he made the comment that he hoped
8	Number 88, which is the Amended Complaint --	8	we got a new Governor, maybe they would replace
9	A I'm sorry. Which one?	9	Elizabeth. She could be very inconsistent with her
10	Q You have the right exhibit now. Turn	10	work with me, in my experience.
11	11 to page 9 of that Complaint.	11	Finally, I reached her by phone. She
12	A Okay.	12	said, why are you not responding to my questions? I
13	Q And I'm looking particularly at	13	said, I'm not seeing your e-mails. So I got up and I
14	paragraph 20. It says, "After learning of Carmack's	14	walked down to our IT Department, and I asked Jeff
15	complaint..." and that's referring to your OSIG	15	and Adam, who were in Jeff's office -- that's Jeff
16	Complaint, "...in October 2017, Carmack's e-mails	16	Webb and Adam Tolbert -- and I said I'm not receiving
17	were blocked with Senior Assistant Attorney General	17	E-mails from Elizabeth Griffin.
18	Elizabeth Griffith, leaving Griffith with the	18	Jeff turns around, oh, it was blocked.
19	impression Carmack was ignoring her." Tell me about	19	It's fixed. And that was the only party that my
20	that. What's that allegation about?	20	e-mails were blocked to, in addition to Peter Blake.
21	A Okay. Earlier that calendar year the	21	I have no idea why. Once that was unblocked, I saw
22	Tobacco Commission asked me and Evan Feinman, the	22	Elizabeth's e-mail chains, and I understand why she
	206		208
1	Director of the Commission, asked if the Higher Ed	1	was angry. I responded back to her. Blocked, didn't
2	Center would assume the debt collection piece of the	2	know why. Apologized, and we moved forward.
3	scholarship program that had been done by his office	3	Q And you have no factual information
4	in the Department of Collections in Richmond.	4	that Mr. Carmack was in any way responsible for the
5	I told him that we would. He told us	5	e-mail solely to Elizabeth Griffin being blocked?
6	he would pay us additional money for that. I went to	6	A Mr. Carmack wasn't, but I think --
7	Richmond, the AG's office, several times and we met	7	Q I'm sorry. That Mr. Matlock blocked
8	with Elizabeth Griffin, our AG for the Higher Ed	8	your e-mails?
9	Center. There was a variety of attorneys for the	9	A I'm of the opinion that those e-mails
10	Tobacco Commission, so they were always included.	10	were blocked because they are the only e-mails that
11	Stephanie Kim, from the Tobacco Commission, and Evan	11	11 didn't go out in a very crucial time.
12	Feinman and myself laid out the structure of how the	12	Q You're of the opinion. You have no
13	debt collection piece would work. The note, the	13	facts to support that opinion?
14	promissory note, that the students signed had to be	14	A I do have facts to support that someone
15	changed.	15	in IT would had to have had the knowledge to do
16	So we spent months working together as	16	16 that.
17	a team to create the process and the documents to	17	Q Who could have had that knowledge?
18	make this functional. David Matlock and I had	18	A Adam and Jeff who stayed in his office
19	virtually no communication. And one day in October,	19	19 and he constantly ruled with their opinions, so,
20	late September, October, he comes into my office and	20	20 yeah.
21	shoves the cell phone in my face and said, what did	21	Q He constantly what?
22	you do to piss Elizabeth Griffin off? She sent David	22	A Worked against me as a group.

Transcript of William D. Carmack

53 (209 to 212)

Conducted on March 12, 2019

	209		211
1 Q	All right. So you are of the opinion	1 A	Sure.
2 that Mr. Matlock had had your --		2 Q	All right. And you called the
3 A	I am of that opinion.	3	hotline?
4 Q	Based on what you just told me?	4	A I called the hotline and Mr. Cowardin
5 A	Yes, sir.	5	answered. I identified myself. I told him I needed
6 Q	And that's all?	6	to file a complaint and had not done that before.
7 A	Correct.	7	And he sort of walked me through the process. We
8 Q	All right. Now, when was the first	8	talked about did it need to be anonymous or not. We
9 time that you ever learned that you had been		9	talked about the process.
10 mentioned as a possible candidate for a work force		10	He told me the first step in filing my
11 transition at reduction?		11	complaint would be a forensic audit. That audit was
12 A	January 4, 2018.	12	never done.
13 Q	Before January 4, 2018. That was the	13 Q	To your knowledge?
14 day you were given the WTA paperwork, correct?		14 A	To my knowledge.
15 A	Correct.	15 Q	Look at paragraph 19 of the Amended
16 Q	It's your testimony under oath that no	16	Complaint, the last line. We are talking about after
17 one ever told you that or you never learned that from		17	your learning of the OSIG complaint again. Last line
18 any source before that date?		18	is, "Carmack was also cut off from communication with
19 A	That is correct.	19	the Department of Planning and Budget." Was this
20 Q	Not one of your employees, not one of	20	some more e-mail tomfoolery?
21 your friends?		21 A	Prior to March of '16, I had direct
22 A	No, sir.	22	communication from our analyst or the director of DPD
	210		212
1 Q	Okay. Didn't learning of that	1	on all budget information. Following a visit of
2 information, wasn't that what really prompted you to		2	Mr. Matlock to that department, I received very few
3 file that OSIG complaint?		3	e-mails. And when I called to inquire about that, I
4 A	No, sir. The harassment and abuse and	4	was told by our analyst that all correspondence now
5 behavior of Mr. Matlock, who was wasting tax payers		5	had to go to the director.
6 money, fraud and abuse, is what prompted me to file		6	So oftentimes we didn't know what the
7 the complaint seven months before that date.		7	budget submission deadlines were or the criteria,
8 Q	It was motivated by spite against	8	because David did not communicate that to Ms. Hensley
9 Matlock because he got the job that you wanted?		9	or to myself.
10 A	Oh, no. It was motivated by not doing	10 Q	Do you know when your position was
11 right by the citizens of the Commonwealth in the way		11	first considered for WTA?
12 we used our funds and our services. The Higher Ed		12 A	As far as I know January the 4th of
13 Center is an important gem to southwest Virginia.		13	2018.
14 Q	When did you file your written	14 Q	We talked earlier today about your
15 complaint with OSIG?		15	interview with the Committee for the Executive
16 A	It was filed the second time in July of	16	Director position. During one of those interviews,
17 '17.		17	did you tell the members, any members of the
18 Q	When did you attempt to file it the	18	Committee that one of the first things that you would
19 first time?		19	do, if you were hired as Executive Director, was to
20 A	The very end of June, the previous	20	eliminate your job? Did you make that statement?
21 week.		21 A	No, sir, never made that statement.
22 Q	So there is a week off?	22 Q	How much were you dependent upon your

Transcript of William D. Carmack

54 (213 to 216)

Conducted on March 12, 2019

	213		215
1 staff, that we have identified and talked about 2 earlier, to do the day-to-day work of your 3 position?		1 So we always had surplus money at the 2 end of the year. We were very conservative and 3 carried that money forward and had almost \$1,000,000 4 in funds. And the purpose for that was in the event 5 of any type of layoff or mandated budget cut, we 6 would not have to lay off employees.	
4 A I did my own day-to-day work. The 5 position of the chief financial officer is very 6 different from that of the Center director. It's 7 very different from the business manager or from the 8 grants administrator. My job was an executive level. 9 It should have and was, up until the time Mr. Matlock 10 came. I was involved very closely with our college 11 partners, which paid us rent.		7 So when we saw the five percent 8 reduction, we went into the budget, and there was a 9 position there, a marketing position that had 10 formerly been filled. We eliminated that position, 11 which was about \$89,000 of the 150 we needed to cut. 12 And then we went through and -- what we called 13 maintenance reserve, which is repairs to the 14 building, like carpet, HVAC, part of the real estate 15 fixture, was usually padded pretty heavy. And so we 16 reduced the balance of that \$150,000 out of that, so 17 that made our cut.	
12 I was involved in the negotiations of 13 new programs coming into the Center. Usually that 14 required obtaining matched money or State budgeted 15 funds. I was involved in the MOU, Memorandum of 16 Understanding, which is basically a contract with any 17 tenant in the building, which had to meet certain 18 guidelines for audit purposes, for finance purposes.		18 Shortly into the next fiscal year, we 19 received notice that the State was in better shape 20 than they thought, and so they slowly began to give 21 some of that money back on to us. For the second 22 year, they did ask us to leave that frozen, but there	
19 I was very active in the academic world 20 throughout the State in trying to help recruit 21 different programs and was very successful in laying 22 the groundwork, of which Mr. Matlock reaped the fruit	214		216
1 for East Tennessee University to have a nurse 2 practitioner program, Radford to have a licensed 3 clinical social work program, and ODU, I'm sorry, VCU 4 to have a clinical life science program.		1 was never a budget shortfall. We always lived within 2 the budget and always had funds left over for a 3 contingency fund at the end of the year.	
5 Q All right. When did you become aware 6 of any potential budget cuts coming, budget cut 7 reduction or requests coming from Richmond to the 8 Center?		4 Q Do you know of more than one reduction 5 request coming from Richmond?	
9 A We were notified -- gosh, I don't 10 remember the year, 2016 maybe -- that all State 11 agencies -- State was short in general funds and all 12 State agencies needed to prepare for a five percent 13 cut in budget. We had always prepared the budget at 14 the Center.		6 A There was the one the first year, and 7 then the second year they talked of one. But the 8 same five percent cut we made the previous year, we 9 used again going forth. They left it on the table. 10 They didn't make it ten percent, if that makes sense. 11 It was just a total five percent cut over two 12 years.	
15 The budget is complicated. We received 16 general funds and had received approximately the same 17 amount of general funds every year since the Center 18 was established in 1987. That's about \$2,500,000. 19 Our operations exceeded that, and we were responsible 20 as a Center for raising that money. And so the way 21 we did that was by renting space at our conference 22 service activities.		13 Q But you didn't know that another one 14 would not be implemented?	
		15 A Pretty much from what -- the 16 correspondence we had received from the Governor's 17 office was that that would be it, five percent should 18 be it.	
		19 Q I'm looking at paragraph 26 of your 20 Complaint on page ten, and this is the Paula Moad 21 contacting UVA HR incident?	
		22 A Yes.	

Transcript of William D. Carmack

55 (217 to 220)

Conducted on March 12, 2019

	217		219
1 Q	I believe you have been present in	1 and UVA disclosed the information to her. Paula is a	
2 Abingdon for all the, for the depositions we have		2 retired school principal, very professional, very	
3 taken, Joyce Brooks' deposition, for example.		3 discrete. And so when someone from UVA let Joyce	
4 A Yes.		4 know that she had called, Joyce took Adam and went	
5 Q Now, did hearing Joyce Brooks'		5 upstairs and berated Paula to the point of tears.	
6 testimony about what this incident was over Ms. Moad		6 Paula called me on my cell phone.	
7 contacting UVA, did that affect your, does that		7 And we're talking about a 70-year-old	
8 affect your view of this paragraph number 26 in your		8 female, retired principal. She's not a soft cookie.	
9 complaint, how it's drafted?		9 And she said, I have never been talked to so rudely	
10 A No. Because Ms. Brooks was untruthful		10 in my life, and I want to file a complaint. Joyce	
11 in her deposition.		11 all but yelled in my face that I didn't have the	
12 Q She was?		12 right to do what I did, and Adam stood there and said	
13 A Yes.		13 nothing.	
14 Q All right. So this did not have to do		14 So later that afternoon I was called to	
15 with Ms. Moad contacting UVA about an applicant whose		15 Mr. Matlock's office with Ms. Brooks. And he	
16 application was rejected because of some adverse		16 basically chewed me out, and both told me never to	
17 information on a State Police background check?		17 have a conversation with you again. She said, I want	
18 A That is correct, and that information		18 to file a grievance. I said, I will be back in the	
19 is correct.		19 morning, and I will sign your grievance form.	
20 Q Okay. What was untruthful about her		20 Q But it was Moad reporting that	
21 testimony?		21 conversation to you?	
22 A The position in of the Testing Center		22 A That is correct.	
	218		220
1 had been opened for approximately a month. We were		1 Q And you were not a party to that	
2 critically short, and we were trying to get someone		2 conversation?	
3 into those part-time wage positions because -- IT was		3 A Correct.	
4 one, David and Jeff Webb were wanting to move Austin		4 Q All right. And she wants to file a	
5 Deirks, who was helping us in the Testing Center,		5 grievance?	
6 back to IT full-time. And so they were really		6 A Correct.	
7 pushing to get those positions filled.		7 Q And did she file a grievance?	
8 I submitted the requisition to Joyce		8 A She filed a grievance form. She pulled	
9 and, in typical fashion, she held the requisition for		9 it off line. She filled it out. She brought it to	
10 approximately a month because she didn't like me.		10 me to sign as her supervisor, and it was sent to UVA.	
11 And so it became even more critical, and I would		11 Approximately about four days later it was laying in	
12 mention it to her. She would say, I will send up		12 my mailbox with a note on it, sent to the wrong	
13 today, I'll send it up to UVA today to post. It		13 address, which I know that information would have	
14 didn't happen.		14 come back to Joyce Brooks' office, where Adam and	
15 Eventually, I was leaving to go to		15 Joyce worked, because it was UVA HR information.	
16 Richmond for a meeting and Paula came into my office		16 Q Do you have a copy of that?	
17 that morning in December, and she said, is it okay if		17 A I have a copy of her grievance.	
18 I call and see what the status is on those postings?		18 Q All right. But this is in addition to	
19 I said, yes, because Ms. Brooks would not communicate		19 your grievance?	
20 with me, and when she did, I had difficulty believing		20 A I attempted to file a grievance in	
21 what she said most of the time.		21 early 2017.	
22 So with my permission, Paula called UVA		22 Q Yes, sir. In, well, in November of	

Transcript of William D. Carmack

56 (221 to 224)

Conducted on March 12, 2019

	221		223
1	'17, right?	1	I suspect --
2	A I don't remember the month, but it was	2	Q Well, the document will speak for
3	in '17.	3	itself, but I just want to read you a little bit
4	Q Let's give your attorney that, make	4	here. Aren't you -- why would Ms. Moad be
5	this the next exhibit.	5	complaining about, "When awareness of an OSIG
6		6	complaint was known I was blocked from seeing the
7	(Exhibit Number 101 was marked for	7	directors calendar. I consider this a retaliatory
8	identification)	8	act."
9		9	That would not be Ms. Moad saying that;
10	BY MR. KINCER:	10	that would be you saying that, wouldn't it, Mr.
11	Q All right. Have you had a chance to	11	Carmack?
12	see that?	12	A It certainly would.
13	A Yes, sir.	13	Q All right. So you still say Exhibit
14	Q Is that the grievance you're referring	14	101 is Ms. Moad's grievance?
15	15 to?	15	A I do.
16	A It is.	16	Q All right. So her grievance was,
17	Q And but it's not early of '17, it's	17	indeed, filed. Is that correct?
18	18 November 14 of '17, correct?	18	A We sent the grievance to UVA and it was
19	A My personal grievance I filed was early	19	returned.
20	20 in '17. Ms. Moad's was filed toward the end of the	20	Q And UVA was handling --
21	21 year of '17.	21	A The HR.
22	Q All right. But in this grievance you	22	Q -- the HR work for the Center,
	222		224
1	say -- Exhibit 101 is your personal grievance,	1	correct?
2	correct?	2	A Uh-huh.
3	A No. That's Paula Moad's grievance.	3	Q All right. Yes?
4	Q Well, that's November 14 of '17. Is	4	A Yes.
5	that not your signature there beside that date there	5	Q That's the first time you have done
6	on Exhibit 101?	6	that all day, and you should be commended.
7	A It is. I made the assumption that	7	A Thank you.
8	that's where the employer signed but, obviously, it's	8	Q Now, so then Matlock and Brooks did not
9	employee. That's her grievance.	9	stop the grievance process?
10	Q All right. So she did file a	10	A The grievance process was returned, and
11	grievance?	11	I found it very unusual that when a grievance form is
12	A She did.	12	filed with HR and UVA, that even if it had gone to
13	Q All right. We are not going to read	13	the wrong address, it would have been forwarded to
14	the whole thing, but Exhibit 101, in that grievance	14	the proper address.
15	aren't you discussing what Ms. Moad's complaints and	15	Q Let's go to paragraph 27 then. Looks
16	your complaints? I mean isn't it a conglomeration?	16	like we have another grievance we are talking about.
17	Take a look at it.	17	Paragraph 27 of the Complaint, of your Amended
18	A I share some of these concerns but they	18	Complaint.
19	19 are Ms. Moad's complaints.	19	It says, "After learning Matlock's
20	Q But Ms. Moad's signature is not on that	20	actions, Carmack filed his own grievance noting that
21	grievance, yours is?	21	he felt this was retaliation for his OSIG complaint."
22	A That is correct, which is an error and	22	Isn't that in the grievance I read you

Transcript of William D. Carmack

57 (225 to 228)

Conducted on March 12, 2019

1 from excerpts --

225

2 A Similar, yes.

3 Q -- of 101?

4 A Very similar, yes.

5 Q You say this grievance also was not
6 addressed. What happened to your personal grievance
7 you cite in 27?8 A I sent it to UVA and never heard
9 anything else. I made the assumption it was returned
10 to Ms. Brooks and trashed. She would do anything to
11 protect Mr. Matlock.

12 Q Excuse me?

13 A I assumed she threw it away. And I
14 made the assumption she would do anything to protect
15 Mr. Matlock, so she destroyed the grievance.16 Q And you make that assumption because
17 you don't think Joyce Brooks liked you?18 A Well, she said in her deposition she
19 didn't like me.20 Q Well, yeah. We'll have her deposition.
21 You don't like her either?

22 A I don't trust her. I don't find her to

1 grievance that I filed with the Higher Ed Center or

2 with the DHRM, through UVA to DHRM for the Higher Ed
3 Center.4 Q All right. And looking again, looking
5 at -- go to the second page of the grievance
6 procedure form of Exhibit 101.

7 A Uh-huh.

8 Q And you can see there is two
9 paragraphs, and then there is, starting Paula Moad
10 wage employee. You see that?

11 A Yes.

12 Q As the supervisor for our Testing
13 Center. And you talk about Ms. Brooks, and you talk
14 about the background check.

15 A Uh-huh.

16 Q Why would that have been included in
17 your grievance?18 A Because I felt like all of those were
19 violations of policy and unethical behavior. I think
20 there was great attempt between Ms. Brooks,
21 Ms. Heitala, and Mr. Tolbert and Mr. Matlock to cover
22 up his intent to do things his way, because he was

1 be very integretous (sic) person.

226

2 Q Look at the -- go back to Exhibit 101.

3 Do you still have that before you?

4 A Uh-huh.

5 Q Look at the grievance Form A, Duffy
6 Carmack. That's your -- to Duffy Carmack. You see
7 this is from EDR, edr@dhrm.virginia.gov?

8 A Right.

9 Q And it says, "Dear DHRM Employee,
10 Dispute Resolution Department. Please find grievance
11 Form A for attention to a sizeable matter at
12 Southwest Virginia Higher Ed Center. Please feel
13 free, Respectfully, and it's William D. Carmack."14 And that's the grievance you filed
15 with --16 A Let me make a correction now that I
17 have read this.

18 Q Okay. All right.

19 A This is the grievance I filed on my
20 behalf. This is not the grievance Paula Moad signed.
21 She filed a grievance. She signed a grievance, and I
22 signed it as her supervisor. This is my personal

1 the agency director as he stated many times.

2 Q You have to agree with me that an
3 agency director of whatever agency has discretion in
4 the Commonwealth, don't they?5 A As long as they abide by the policies
6 of the Commonwealth. He did not.7 Q All right. Now, go to paragraph 28 of
8 your complaint, of the Amended Complaint. Still
9 where we were on page eleven, paragraph 28. And this
10 allegation in paragraph 28 says, "Carmack also wrote
11 a letter to members of the Board of Trustees of
12 Southwest Virginia Higher Ed Center on December the
13 7th of 2017."14 And I'm sure you have seen this. I'm
15 going to hand this to you. I believe this is 102.

16

17 (Exhibit Number 102 was marked for
18 identification)

19

20 BY MR. KINCER:

21 Q Is that your letter that you're
22 referencing?

Transcript of William D. Carmack

58 (229 to 232)

Conducted on March 12, 2019

	229		231
1 A It is.		1 what the problems are. And so we had 30 minutes	
2 Q You're familiar with the contents of		2 before the board meeting began, and I began to	
3 that letter?		3 outline in a professional manner what the issues were	
4 A I am.		4 that needed to be addressed, and that I felt like a	
5 Q And what was your purpose of writing		5 mediator should come in.	
6 this letter?		6 DHRM has a contract with four firms in	
7 A Senator Carrico had established the		7 the State of Virginia that does this within state	
8 protection of Mr. Matlock from the Board of Trustees		8 agencies, but the individual agency has to pay for	
9 using the Executive Committee. The bylaws of the		9 it. I never felt like that it was ethical for me to	
10 Higher Ed Center clearly states that the Board of		10 go ahead and approve that as CFO. I could have but I	
11 Trustees has the responsibility for hiring, firing		11 felt like it was something that should have been	
12 and directing the Center director.		12 mutual between David and myself, and it was never an	
13 At no time in three years of problems		13 option; it was never opened for discussion of that.	
14 and two years of complaining to various agencies, and		14 Senator Carrico said, I hate to cut you	
15 employees complaining directly to Mr. Matlock, did		15 short, but it's 2:00 and we need to go to the board	
16 any of those items ever come to the board.		16 meeting. We got up to leave and he said, by the way,	
17 Mr. Carrico would not allow it to be discussed if		17 I not going to bring this up today, because we need	
18 another board member brought it up. And I felt like		18 to discuss it further. I said okay. We went to the	
19 that the Board of Trustees needed to be made aware of		19 board meeting. When Mr. Cochran asked to go into	
20 the severeness and the morale issues that was going		20 executive session, he refused for that to happen.	
21 on.		21 I never had any other conversation with	
22 So I elected to write this letter. And		22 Mr. Carrico following that. But I did get this	
	230		232
1 if you pay attention to the fact, I did not write it		1 letter in the mail where he said he investigated, and	
2 with animus or to create great problem. I was simply		2 I refused to provide him information he requested,	
3 asking that a third party administrator come in,		3 and he considered it closed. That was a lie.	
4 interview the employees, including Mr. Matlock, and		4 Q Okay. That was a lie. Okay. But if	
5 make a report back to the Board so that some		5 Senator Carrico were to testify that there was,	
6 constructive way could be devised for him to be		6 indeed, a meeting with you before this meeting, you	
7 successful in the job, but that was never allowed to		7 expressed some concerns that you were having, and	
8 happen by the Board.		8 Senator Carrico instructed you or advised you at that	
9 As you will notice, one of the Board		9 time, look, if you're having all these problems, get	
10 members wanted to go into executive session to		10 some people together and bring them to me, and let's	
11 discuss this, and Mr. Carrico prevented it.		11 talk about them, that conversation would have never	
12 Q Let's talk about that. Was the Board		12 happened?	
13 member Steve Cochran?		13 A I don't understand the question.	
14 A I believe that's right.		14 MR. GRIMES: Yeah, objection to the	
15 Q That's in your complaint.		15 form. That was a long question.	
16 A Okay. Well, it was.		16 MR. KINCER: It was a long question,	
17 Q Okay. Now, how did Senator Carrico		17 but that's no objection.	
18 prevent it?		18 THE WITNESS: I don't understand the	
19 A I was called into the conference room		19 question.	
20 30 minutes before the board meeting by Senator		20 MR. GRIMES: I don't understand it	
21 Carrico, and he asked me to explain what this letter		21 either.	
22 was. And he took notes, and he said, I want to know		22	

Transcript of William D. Carmack

59 (233 to 236)

Conducted on March 12, 2019

	233		235
1 BY MR. KINCER:		1 A No.	
2 Q Okay. Did Carrico tell you to get some		2 Q So who told you that there was a	
3 people together and he would talk to you?		3 conversation before?	
4 A No, he did not.		4 A Senator Carrico alluded to the fact	
5 Q And that would be a lie if he said		5 that he had spoke to the Attorney General's office	
6 that, if Carrico said that?		6 and had been advised not to bring it up at the	
7 A Yes. He didn't say it to me.		7 meeting.	
8 Q Actually, you said Carrico, reading		8 Q Okay. Now, alluded. Did Carrico state	
9 from your complaint again, that Carrico prevented		9 that?	
10 this discussion at the meeting?		10 A He stated that.	
11 A He did.		11 Q That's clear as day now. Okay. Let's	
12 Q All right. Actually, when Cochran made		12 follow that up because you referenced it. Senator	
13 this motion, the motion fell for want of a second,		13 Carrico responded -- this would be 103. Senator	
14 didn't it, Mr. Carmack?		14 Carrico responded in writing to your December 7th	
15 A Not that I remember.		15 letter, correct?	
16 Q All right. Well, can we agree the		16 A After I was terminated, yes.	
17 minutes will speak?		17 Q Well, January 9th would be after	
18 A I can't agree to any of that. I		18 January 4th.	
19 haven't seen the minutes.		19	
20 Q All right. Also, but was it Carrico or		20 (Exhibit Number 103 was marked for	
21 was it Senior Assistant Attorney General Elizabeth		21 identification)	
22 Griffin? What role did she have in having this		22	
	234		236
1 request denied?		1 BY MR. KINCER:	
2 A She wasn't present. She was		2 Q You have read 103?	
3 telephonically dialed into the meeting, and she never		3 A Oh, yes.	
4 said a word.		4 Q And do you disagree with about	
5 Q Didn't she say this was a personnel		5 everything in Exhibit 103 after Dear Mr. Carmack?	
6 matter?		6 A I mailed the letter a week prior to the	
7 A No, not that I heard.		7 board meeting. I don't know when he received it. He	
8 Q Okay. So she didn't say a word?		8 did not ask for any additional information. He said	
9 A No.		9 he would get back to me. I basically don't agree	
10 Q So it's erroneous in your compliant		10 with any of the rest of it. It is fabricated after	
11 when you say, under advice of Attorney General		11 our conversation and doesn't pertain to what was	
12 Elizabeth Griffin, because a mute does not provide		12 actually said.	
13 advice, correct?		13 Q Under your view?	
14 A I'm not following you there again.		14 A Correct.	
15 Q She didn't say anything; you said she		15 Q All right. The Heitela family; how	
16 didn't say a word.		16 many Heitela family members were at the Center as of	
17 A During the board meeting she didn't say		17 the time you left?	
18 anything.		18 A When I came to work at the Center,	
19 Q All right. So how was she responsible		19 Kathy was administrative assistant. She remains so.	
20 for denying your request?		20 with Mr. Matlock. She had a daughter who worked	
21 A Conversation prior to, I understand.		21 weekends. She had a son, Eli, who was hired for	
22 Q Were you party to that conversation?		22 conference services, and there was a daughter,	

Transcript of William D. Carmack

60 (237 to 240)

Conducted on March 12, 2019

	237	
1 Hannah, that was an employee of UVA-Wise.		1 A Kathy.
2 Sim Ewing, who was the CFO at UVA-Wise,		2 Q So after Mr. -- strike that. You told
3 who was a partner school at our institution,		3 me this morning that you sat in as interim director;
4 contacted me during my interim period and said, we do		4 you sat in on a couple of the interviews.
5 not have the funds to keep Hannah on board; do you		5 A I did.
6 have a need for a part-time person? And we had a		6 Q Well, in fact, you sat in David
7 need in our Testing Center, so she remained a UVA		7 Matlock's second interview, did you not?
8 employee with UVA benefits, and we reimbursed Sim 50		8 A I don't recall, but I did sit in on
9 percent of her salary for her to work part-time.		9 some of his interview process.
10 Hannah was working in our Testing		10 Q Some of Matlock's?
11 Center. I knew she was looking for a permanent,		11 A Yes. He addressed the Center. He came
12 full-time position. And when all of this opening		12 down, he addressed. It was an open meeting, frankly,
13 opened up, when Austin Deirks wanted to go back to IT		13 for the staff. And he came down and talked about his
14 and we were trying to hire employees, I went to		14 goals, ideas and objectives for the Center.
15 Hannah to say, would you be interested in working		15 Q Were you present for that?
16 full-time as the manager of the Testing Center? And		16 A I was.
17 this was in November of 2017.		17 Q Did you lend any further communication
18 She squirmed, and she goes, David and		18 to matters that you were not personally knowledgeable
19 mom are working on something for me so, no, I'm		19 of, but that you heard about, he didn't do this and
20 waiting on something else. I said thank you and		20 he didn't do that, didn't follow through?
21 walked away.		21 A No, sir.
22 Q So now I'm not clear.		22 Q You did not share any of that?
	238	
1 A She was hired into a permanent,		1 A No, sir.
2 full-time, new position after I was terminated by		2 Q All right. You really wanted that
3 Mr. Matlock.		3 Executive Director's job, didn't you?
4 Q Who hired her?		4 A No. I wanted ten years in the VRS
5 A Mr. Matlock.		5 system at \$109,000.
6 Q And but Kathy Heitala was hired by Dr.		6 Q All right. And so it's your testimony
7 Fowlkes?		7 from all day that, essentially you tried to support
8 A Correct.		8 Mr. Matlock in his endeavors after he was hired as
9 Q And this Eli Heitala, he just set up		9 Executive Director?
10 the tables at events?		10 A Yes, I did, and was retaliated against
11 A Oh, he started out as wage, but then he		11 continually by him. I finally arrived at the idea he
12 was hired as the, quote, manager of conference		12 had an agenda to rid my employment from the third
13 services. He was hired permanently. To answer your		13 month he was there.
14 question, there was Kathy and two of her children		14 MR. KINCER: This will be 104.
15 working full-time and one part-time.		15
16 Q Okay. Thank you.		16 (Exhibit Number 104 was marked for
17 A And I think state policy says you're		17 identification)
18 not to hire family if you have any direct or indirect		18
19 influence over them. She would certainly be in an		19 BY MR. KINCER:
20 indirect position as David's administrative		20 Q Let's go to the next, to the back page.
21 assistant.		21 First of all, who is Deborah Bourne?
22 Q Who would be, Kathy?		22 A She was a former employee at the

Transcript of William D. Carmack

61 (241 to 244)

Conducted on March 12, 2019

<p style="text-align: right;">241</p> <p>1 Center. She was director of Conference Services and 2 Operations for Dr. Fowlkes.</p> <p>3 Q She did not get along with Dr. Fowlkes, 4 did she?</p> <p>5 A Not toward the end of her employment.</p> <p>6 Q All right. And she eventually ended up 7 in some position at Tech?</p> <p>8 A VIACOM, the osteopathic medical 9 school.</p> <p>10 Q All right. October there is a, 11 starting with the e-mail from Deborah Bourne to you 12 on October 1, 2015.</p> <p>13 A Uh-huh.</p> <p>14 Q I heard the news. I'm very upset. Is 15 the news that Matlock was going to be Executive 16 Director?</p> <p>17 A Yes, uh-huh.</p> <p>18 Q And that you were not going to be?</p> <p>19 A Correct.</p> <p>20 Q Now, let's go back. You replied to her 21 at 1:46 p.m., didn't you?</p> <p>22 A Yes, I did.</p>	<p style="text-align: right;">243</p> <p>1 process. She backed out at the very last second of 2 her interview.</p> <p>3 Q All right. Blevins did?</p> <p>4 A Yes.</p> <p>5 Q She wasn't offered the job?</p> <p>6 A Not to my knowledge.</p> <p>7 Q Okay. Was another applicant offered 8 the job and declined?</p> <p>9 A Not that I'm aware of.</p> <p>10 Q Do you have who the three finalists 11 were for that position?</p> <p>12 A I did, but I couldn't tell you who they 13 are now. David, Carol, and I don't remember the 14 third.</p> <p>15 Q Carol is who, Carrico?</p> <p>16 A No, a female. Dr. Carol somebody from 17 the midwest.</p> <p>18 Q Okay. I'm sorry. Okay. Then still 19 reading your e-mail back to Ms. Bourne, you say, 20 "Great relief. Thank you for all of your support and 21 kindness. It's very important to me. I too have 22 a..." all caps, "...GREAT concern for the Center.</p>
<p style="text-align: right;">242</p> <p>1 Q And so you described -- what were you 2 describing when you were talking about, "Debbie, Hi, 3 Well, the good part is this sick, sick underhanded 4 process is over." What process were you talking 5 about?</p> <p>6 A The recruitment and hiring process for 7 a Director.</p> <p>8 Q Okay. And it was sick, sick because of 9 all the reasons you told me this morning? Or do you 10 have additional reasons that we didn't talk about 11 this morning?</p> <p>12 A There were additional reasons that 13 involved Leanna Blevins, who was the Executive 14 Director of the Higher Education Center in 15 Martinsville. She applied for the position, got up 16 to interview and backed out. There was some 17 political pressure from the Martinsville market for 18 her to stay. So it was just a very problematic 19 process from the beginning.</p> <p>20 Q Okay. Well, how did the Blevins matter 21 affect anything concerning you or Matlock?</p> <p>22 A It was just another problem in the</p>	<p style="text-align: right;">244</p> <p>1 The five resident college partners were unanimously 2 opposed to this, but our great members of the General 3 Assembly did not find that important."</p> <p>4 Now, first of all, who were the five 5 resident college partners you're talking about there?</p> <p>6 A UVA-Wise, Old Dominion, Virginia 7 Commonwealth University, VCU and Virginia Tech.</p> <p>8 Q And so they were unanimously -- and 9 when we say opposed to this, am I reading this 10 correctly, opposed to David Matlock being Executive 11 Director of the Center?</p> <p>12 A That was what I was told as interim 13 director from the president of these institutions 14 when he was named as the director.</p> <p>15 Q You were told by who?</p> <p>16 A The presidents of these various 17 institutions.</p> <p>18 Q Each president of these universities 19 that you have named personally told you that?</p> <p>20 A President or dean.</p> <p>21 Q Okay. Well, let's go with what deans 22 of what school told you that?</p>

Transcript of William D. Carmack

62 (245 to 248)

Conducted on March 12, 2019

	245		247		
1	A	Dean of ODU, dean at Virginia Tech.	1	A	Yes, it is.
2	Q	What dean?	2	Q	"...best of luck to her. A sad case of
3	A	At which location?	3		a self-absorbed woman, laughing emoticon."
4	Q	Which? ODU first?	4	A	I agree today.
5	A	Okay. ODU would have been Cecil Drane,	5	Q	Okay. I thought you were good friends
6		because he was their board representative.	6		with Ms. Fowlkes?
7		UVA-Charlottesville was Steve -- I cannot pull his	7	A	We are. We are. I tell her to her
8		last name, but it will come to me. Virginia Tech	8		face, you're just a self-absorbed...
9		was, the president of the college told me that	9	Q	Now, let's go to the next page of 104.
10		himself. UVA-Wise, I was told that by Marcia Gilliam	10	A	Okay.
11		that Donna Henry, who was president of UVA-Wise --	11	Q	And this is going from Bourne, again,
12	Q	That was secondhand?	12		12 following back up October 1, 2015 back to you.
13	A	Yes, yes.	13		13 "Greetings, Duffy, do you intend to stay? I can't
14	Q	Okay.	14		14 imagine how awful this has been." You reply, Duffy
15	A	I was told by -- let's see, who I'm	15		15 Carmack to Bourne, October 1, 1:58 p.m. "Yes, I
16		leaving out? Tech, Charlottesville, UVA-Wise, Old	16		16 would certainly consider other opportunities within
17		Dominion, VCU was Cecil Drane. So that's the five	17		17 the State system. I promise you that he will be
18		full-time college partners.	18		18 short-lived. It will be a slow drowning."
19	Q	Drane told you that?	19		Was that in reference to David
20	A	Yes.	20		Matlock's tenure as Executive Director at the
21	Q	All right. Who were the great members	21		Center?
22		of the General Assembly? Members as in plural, so it	22	A	It's been my experience when you don't
	246		248		
1		has to be more than Carrico.	1		have full support of Board of Trustees as your
2	A	Our six southwest Virginia	2		governing body, it is a slow drowning, a short
3		representatives from southwest Virginia who all came	3		tenure.
4		together, even though two of them's term had expired	4	Q	So the answer to my question is yes?
5		on the Higher Ed board; the Governor had not replaced	5	A	Yes, uh-huh.
6		them. They hadn't been to a meeting in several	6	Q	All right. And you wished that was
7		months, but they did come in to be sure to support	7		true, didn't you, when you wrote it?
8		Senator Matlock's vote of David unanimously.	8	A	No. I was sorry for the Center. I
9	Q	Did this include a Democrat?	9		think the Center always had an awful lot to offer our
10	A	No, they are all Republicans.	10		community. I think the community college system has
11	Q	Every one?	11		done a great deal in our community, because in
12	A	Uh-huh.	12		southwest Virginia we need jobs and we need
13	Q	Yes?	13		education.
14	A	Yes.	14		I have not seen our community college
15	Q	All right. But they only had a vote,	15		grow under David's administration, and have not seen
16		16 correct?	16		our Higher Ed Center flourish under his
17	A	Correct.	17		17 administration. So I think it's a loss to the
18	Q	Of the 23 we talked about?	18		18 citizens of the southwest Virginia.
19	A	Correct.	19	Q	You think that -- it's your opinion
20	Q	All right. Then continuing on with	20		20 that the Center is failing presently?
21		21 your reply to Ms. Bourne, you said, "I will be fine.	21	A	For leadership, yes.
22		22 As for Rachel..." Is that Rachel Fowlkes?	22	Q	What's the distinction? How is it not

Transcript of William D. Carmack

63 (249 to 252)

Conducted on March 12, 2019

<p>1 failing?</p> <p>2 A It's not failing financially. It's 3 failing under what I would say integrity. It's 4 failing from lack of direction. It's failing from 5 some pretty negative publicity that's coming out.</p> <p>6 Q What negative publicity?</p> <p>7 A Public knowledge this lawsuit is taking 8 place.</p> <p>9 Q So is the publicity being your filed 10 lawsuit?</p> <p>11 A I have had a lot of people say they 12 read about it on-line, and I just look at them. I 13 don't know where they pull it up from.</p> <p>14 Q Have you ever told anyone that the 15 reason that you left the Center was because of David 16 Matlock's improper or unlawful actions?</p> <p>17 A No. I tell people I left the Center 18 because I was fired for a whistle blowing violation. 19 I complained to OSIG and David terminated my 20 employment.</p> <p>21 Q That's what you believe today?</p> <p>22 A Yes, sir.</p>	<p>249</p> <p>1 little spin on it. I'm sure she is absolutely 2 cringing at the thought of him running the place. 3 She did not care for him at all. Call or write me 4 when you can. Happy Thanksgiving to you." You 5 recall receiving that text from Debbie?</p> <p>6 A When I read this, and yes, I assume I 7 read it.</p> <p>8 Q All right. And what was she referring 9 to -- Rachel is Rachel Fowlkes again?</p> <p>10 A Yes.</p> <p>11 Q What was she referring to, "positive 12 little spin?"</p> <p>13 A Rachel most of the time looked for the 14 positive in everything. Even if it was negative, she 15 tried to find a silver lining.</p> <p>16 Q And what knowledge do you have versus 17 whatever Ms. Bourne had when we got to ask her about 18 that? What knowledge do you have that Rachel 19 disliked Dave Matlock?</p> <p>20 A Ms. Fowlkes made very open comments 21 when Mr. Matlock applied for the job. She was very 22 vocal throughout the building that if David Matlock</p>
<p>250</p> <p>1 Q Okay. Now, continuing with Exhibit 2 104, in the discussion between you and Ms. Bourne, 3 the next, her reply to your drowning message is, 4 "Yes, he will definitely sink. Who on earth 5 engineered his hiring?!" And then you e-mailed back 6 to her, "Are you available to talk?" She said, "Yes, 7 at my desk now." Did you talk to her to discuss the 8 situation about --</p> <p>9 A I don't recall if I talked to her that 10 day, but I have spoken with Ms. Bourne. We have been 11 friends for 25 years, and so I have talked to her 12 probably four times a year, five times a year.</p> <p>13 Q All right. And then go to the -- we're 14 working our way towards the first page. Go to the 15 second page.</p> <p>16 A Uh-huh.</p> <p>17 Q And this Debbie sends you a November 18 24, 2015 text. "Hi, Duffy I tried to reach you a few 19 times. I have been thinking about your (sic) and 20 hope you are doing okay. I can't imagine how the SW 21 HEC will fair under Dave Matlock. I just can't 22 imagine it. I see where Rachel put her positive</p>	<p>252</p> <p>1 got the job, it would just become a community 2 college. David Matlock did not have the experience 3 to be director, that he had always worked in the 4 community college system, and he didn't work directly 5 at the executive level of government. He always had 6 to go through Dr. Dubois, the State Chancellor of 7 Community College's office. She made those comments 8 every day about him up and down the hall to 9 everyone.</p> <p>10 Q So insofar as executive -- strike that. 11 Insofar as education, training, experience or 12 ability, did you believe you were more qualified than 13 Dave Matlock for this job?</p> <p>14 A As far as education, work experience, I 15 was qualified for the job. What I was interested in 16 was having a job with the State for ten years, and I 17 was very happy as chief financial officer. My job as 18 CFO was in my field of expertise, and I was very good 19 at it.</p> <p>20 Q But you weren't happy from the time 21 Matlock became Executive Director until the time that 22 you left?</p>

Transcript of William D. Carmack

64 (253 to 256)

Conducted on March 12, 2019

	253		255
1 A I wasn't happy with the way he treated 2 me with the abuse and harassment. I liked the job, 3 not the work environment.		1 Rachel's hell, whom you apparently liked? 2 A I like Rachel. Rachel can be very 3 manipulative. Rachel created a great deal of enemies 4 in former employees who had worked for the colleges 5 and had left over the years. I can't really think of 6 a single person that who had worked at the Higher Ed 7 Center, probably as many as ten, that worked for her 8 that left because of her manipulative, negative 9 behavior.	
4 Q We will get to the first page of 5 Exhibit 104, and this is you back to Deborah Bourne 6 on November 24. And it says, 'Hi, Debbie. I am 7 remiss in returning your call. Your interest and 8 thoughtfulness means so much to me. The place is a 9 living hell, only to become worse."		10 She was capable of doing that with 11 everyone. And I know the Center was her life. It 12 was her livelihood. It was her passion. It was her 13 invention. I know how hard she agonized over trying 14 to decide to retire. And so I'm sure having it in 15 the hands of someone that she verbally said daily 16 wasn't capable, was absolute hell to her.	
10 How was the place a living hell on 11 November the 24, 2015?		17 Q All right. Well, at a subsequent 18 time -- and if you recall the incident, you can tell 19 me when that was; if you don't recall that incident, 20 it doesn't matter when it happened.	
12 A He had already created a division among 13 staff, because his five followers and he would go in 14 the room and shut the door. They would walk up and 15 down the hall and not speak to other people. 16 Mr. Matlock considered himself an excellent listener, 17 and would call us in to ask a question or to get our 18 opinion and talked the entire time and never listen. 19 People began to figure out that he 20 didn't quite have the management and people skills 21 that he talked that he did. And so the building 22 became very toxic. There were very hard feelings		21 At a subsequent time, did you go to 22 Rachel Fowlkes' house and have a verbal altercation	
	254		256
1 between Ms. Heitela and Ms. Brooks, Mr. Tolbert and 2 Mr. Webb and the remainder of the staff. 3 Q And who were -- again, I want to make 4 sure we have all the players that we talked about. 5 Who are the five followers?		1 with her? 2 A No. I had a conversation with her. 3 Q Tell me about -- was the conversation a 4 loud conversation?	
6 A Adam Tolbert, Jeff Webb, Kathy Heitala, 7 Joyce Brooks and Jeff Webb. 8 Q I thought you said Jeff Webb twice. 9 A Webb, Brooks, Heitala, Tolbert and -- 10 All right. Kathy Heitala, Jeff Webb, Adam Tolbert, 11 Joyce Brooks. I'm blanking on the fifth. 12 Q All right. Well, if it comes back to 13 you before we are through, let me know. 14 A Okay. 15 Q Okay. Then picking right up, "As bad 16 as it is I take delight in knowing Rachel's hell..." 17 and in the text it says I. Did you mean Rachel's 18 hell is probably worse? 19 A More than likely, yes. That makes 20 sense, uh-huh. 21 Q "I will call soon and bring you 22 up-to-date." Now, so why were you taking delight in		5 A No. 6 Q Was it a contentious conversation? 7 A No. 8 Q It was a friendly conversation? 9 A Yes. And the man she dated in her life 10 was there for dinner, and we set around the kitchen 11 table and talked. 12 Q All right. And who was she dating? 13 A Oh, Lord. 14 Q He's present for this conversation we 15 are going to talk about, right, the man? He was 16 there? 17 A Yes. It too will come to me. Don, 18 Don, Don somebody. 19 Q So Don, a friend of hers, was there and 20 you're talking to Rachel. You go to her home, 21 correct? 22 A Correct.	

Transcript of William D. Carmack

65 (257 to 260)

Conducted on March 12, 2019

	257		259
1 Q	Did you tell her you were coming	1 confronted her on did she really support David for	
2 over?		2 the job? Was she really satisfied with that? Or was	
3 A	I don't recall.	3 she truly looking for some other form of leadership?	
4 Q	All right. So you go to her home.	4 And so our discussion that evening took place with	
5 Where does she live?		5 that.	
6 A	On Main Street in Abingdon.	6 Q All right. And her response to you	
7 Q	All right. You go to her home. About	7 was?	
8 when was this visit?		8 A Well, her response was she said she was	
9 A	It was dinnertime, so I'm going to say	9 surprised that David was hired as the director. She	
10 between six and seven p.m.		10 felt like that there were more qualified applicants.	
11 Q	Date?	11 I don't know how she had knowledge of who the	
12 A	No idea.	12 applicants were. She and Kathy Heitela talked daily,	
13 Q	Cold out, warm out, spring, birds	13 so I assume that that was her contact of information	
14 chirping, hot?		14 through the Center.	
15 A	Let me think. I walk in the evenings.	15 We basically ended the conversation	
16 So more than likely I was walking, so it was probably		16 that, okay, I just wanted to be clear on how you	
17 warm. That's all I can remember.		17 stood. Still friends. And she followed me outside.	
18 Q	Would this have been in -- what year	18 And I have no idea what she meant by this, but she	
19 would this have been?		19 looked at me and she said, you know you can send me	
20 A	2015 or '16.	20 to jail. I laughed and I said, you're too skinny,	
21 Q	What was this conversation? What did	21 you wouldn't last long, and left.	
22 you say? What did she say?		22 Q All right. You can what?	
	258		260
1 A	I went over to speak with Rachel about	1 A Send me to jail.	
2 the -- let me back up.		2 Q Oh, okay. What do you think she meant	
3 Q	All right.	3 by that?	
4 A	Rachel became involved in her typical,	4 A I have no idea. I've never understood	
5 manipulative way of controlling the Interview		5 that.	
6 Committee for the Higher Ed Center's search for a		6 Q All right.	
7 director. And she went out and named who these		7 A Don Ault, A-l-u-t (sic), was his last	
8 people were. When the representative at that time at		8 name.	
9 the OIG's office found that out, he had issue with		9 Q Okay. Thank you. But the conversation	
10 that, and asked her not to be involved in any other		10 ended on a good note?	
11 way at all.		11 A Oh, yeah. I see Rachel at church. We	
12 Rachel always said to me that she		12 talk. She e-mailed last week wanting an address for	
13 wanted, hoped that I would have the job when she		13 someone. I have conversations with her.	
14 retired. She made that no secret from the time		14 Q All right.	
15 before I came on. She made it no secret every day to		15	
16 everyone. Again, that's her desire, not mine, so		16 (Exhibit Number 105 was marked for	
17 make a distinction of that.		17 identification)	
18 Rachel's actions did not support a lot		18	
19 of the words that she had said to me over the years.		19 BY MR. KINCER:	
20 Rachel had a lot of comments to me that she and I		20 Q Showing you another couple e-mails	
21 talked about -- we traveled a lot together -- about		21 between you and Betty Adams.	
22 the Center, about me. And so I went over and		22 A Yes.	

Transcript of William D. Carmack

66 (261 to 264)

Conducted on March 12, 2019

	261		263
1 Q	First of all, who is Betty Adams?	1 over. By the way, I'm just fine. I do appreciate	
2 A	Betty Adams is the Executive Director	2 your interest and support. I will be around and	
3 for the Southern Higher Ed Center.	3 still working with the other Centers over the next	4 seven years, Duffy."	
4 Q	Going back to where this started,	5 A Uh-huh.	
5	September the 28th, Betty Adams, she has sent you an	6 Q What did you mean by that?	
6	e-mail that she's thinking about you. "Hi, Duffy:	7 A I had no issue by the fact that David	
7	Just wanted to let you know I'm thinking about you.	8 Matlock was hired. I was there to put seven more	
8	Hope all goes well, or as well as it can go, at	9 years of honest, hard labor into the Higher Ed	
9	today's board meeting. Let me know if there is	10 Center. So of the process, the search process, was	
10	anything I can do to help. I'm a good listener.	11 the most disturbing process to me, and so that's	
11	Best, Betty."	12 simply what it meant.	
12	And was this decision day, was	13 I had no intention of leaving. I had	
13	September 28, 2015?	14 every intention of taking him at his word and working	
14 A	Oh, I have no idea. You would have to	15 hand-in-hand with him and supporting him. He never	
15	look back at the board minutes to see when they	16 gave me that opportunity.	
16	voted.	17 Q Why do you think that was?	
17 Q	Okay. She says, "I hope all goes well,	18 A I have no idea. Never had that problem	
18	18 or as well as it can go, at today's board meeting."	19 in any of my other jobs.	
19	19 What would there have been a board meeting about in	20	
20	20 September?	21 (Exhibit Numbers 106 was marked for	
21 A	We only have them twice a year. They	22 identification)	
22	2 only have board meetings twice a year. And so this		
	262		264
1	would have been a called meeting, and there were	1 BY MR. KINCER:	
2	several called meetings in the Summer of 2015. You	2 Q You recall this e-mail?	
3	would have to refer to the minutes as to what the	3 A Not yet.	
4	purpose was.	4 Q Okay. Take your time.	
5 Q	And then let's go to the first page,	5	
6	your reply back to her. "Betty, thank you very much	6 (Pause in proceedings)	
7	for your concern. This is one of the most difficult	7	
8	days professionally that I have experienced in 40	8 THE WITNESS: I don't recall it but I'm	
9	years. I will be in touch."	9 reading it. I understand it.	
10	Does that jog your memory if that was	10	
11	11 the most difficult day you've experienced	11 BY MR. KINCER:	
12	12 professionally in 40 years?	12 Q Okay. Was this noted -- was this an	
13 A	It wasn't the announcement of hiring	13 e-mail from whoever -- Bryan Garey says he's an	
14	Mr. Matlock; it was the process of that, that the	14 interim vice-president at UVA -- concerning some	
15	search committee and the six southwest Virginia	15 organizational excellence, buzz word, buzz word, in	
16	delegates went through. And witnessing that process	16 the administration of the HR department?	
17	17 was the most difficult of my experience.	17 A My interpretation of the letter, as is	
18 Q	All right. And then she replies, "Hang	18 very commonplace with UVA, is that they were	
19	19 in there." And you reply back to her on September	19 continually realigning and readjusting and people	
20	20 28, 2015 at 8:20, "Betty, the SW HEC is extending an	20 reporting to different departments. And so I take	
21	21 offer to the Virginia Highlands Community College	21 this to mean that Human Resources was going to start	
22	22 guy. One bright spot, the hellish search is finally	22 reporting to under Finance, instead of whoever they	

Transcript of William D. Carmack

67 (265 to 268)

Conducted on March 12, 2019

<p>1 were reporting to before.</p> <p>2 Q And that would -- Joyce Brooks at the 3 time this e-mail was sent to you, Joyce Brooks would 4 have been in HR, wouldn't she?</p> <p>5 A She and Adam together.</p> <p>6 Q All right. And Alicia Young, whom we 7 have already identified as working for you, 8 correct?</p> <p>9 A Uh-huh, right.</p> <p>10 Q And she just forwards this or chimes in 11 on this and says, "Does this mean that whomever does 12 HR for the Center should answer to the finance 13 director (CFO for us)?"</p> <p>14 And the CFO would, at this period of 15 time, would have been you, wouldn't it?</p> <p>16 A That's correct.</p> <p>17 Q All right. And did you reply to 18 Ms. Young, "Well, that would be the icing on the 19 cake. I see retirement in her future." I don't know 20 what that icon is. It will have to speak for itself. 21 What is it? Do you know what icon that is, what 22 emoticon?</p>	<p>265</p> <p>1 A Correct.</p> <p>2 Q And did this -- what position were you 3 in when these acts were complained of?</p> <p>4 A This was in my position as CEO of the 5 Foundation, but I was still CFO of the Higher Ed 6 Center also.</p> <p>7 Q All right. And I just introduced it. 8 I'm not going to waste a lot of time on it. You 9 admit you were the subject of an OSIG 10 investigation?</p> <p>11 A Yes.</p> <p>12 Q Anything can be relative, and we can 13 argue or not, but some rather serious charges?</p> <p>14 A Depends on how you look at them, but 15 the charges are all justified, substantiated and 16 documented. And the Foundation had outside counsel 17 that represented us during that time, and you would 18 have to ask him for that information.</p> <p>19 Q All right. Well, I just meant, again, 20 as compared to turning in your expense account 30 21 days late, you agree the matters that you were called 22 to task for --</p>
<p>1 A Like a devil skull and cross bones.</p> <p>2 Q That's what I thought. Thank you. So 3 were you taking glee in, perhaps, getting rid of 4 Ms. Young?</p> <p>5 A Ms. Brooks you mean?</p> <p>6 Q Yeah, Joyce Brooks.</p> <p>7 A Absolutely not taking glee. I was 8 taking glee in the fact that if somehow she had to 9 report to me, she would retire and go out the door.</p> <p>10 She couldn't stand me, and she made no excuses about 11 it to anyone.</p> <p>12 Q All right.</p> <p>13</p> <p>14 (Exhibit Number was 107 marked for 15 identification)</p> <p>16</p> <p>17 (Discussion off the record)</p> <p>18</p> <p>19 BY MR. KINCER:</p> <p>20 Q Mr. Carmack, you were also the 21 recipient of an OSIG complaint, the subject of an 22 OSIG complaint, weren't you?</p>	<p>266</p> <p>1 A I don't agree with that. To me they 2 are one and the same.</p> <p>3 Q Okay. Mr. Carmack, during the 4 interview process, the search process for the 5 Executive Director for the Center, did you attempt to 6 influence any member of the hiring body in any way?</p> <p>7 A Define influence. I had conversations.</p> <p>8 They had conversations with me about they hoped I got 9 it, or they thought I would be good at it, or they 10 thought I was weak in this area, but no type of 11 influence.</p> <p>12 Q Did you offer any members of the 13 possibility of a grant?</p> <p>14 A No.</p> <p>15 Q Okay. What was the -- it has come up 16 in all the depositions before, and I was going to ask 17 you about it. What was the Ann Dunham complaint? 18 Your attorney has asked that?</p> <p>19 A At Virginia Highlands Community 20 College, this is not the first OSIG complaint against 21 Mr. Matlock. Ann Dunham, who was a employee at 22 Virginia Highlands Community College volunteered</p>

Transcript of William D. Carmack

68 (269 to 272)

Conducted on March 12, 2019

	269		271
1	information openly to a group that she had filed a	1	plates say it stands for Grand Old Party.
2	complaint for harassment and work abuse by	2	Q Okay. So that's just the folklore of
3	Mr. Matlock. And it had been founded, and she was	3	the community, that's what it stands for, the
4	later taken out from under his administration and	4	basis?
5	reported to someone else.	5	A Yes, sir.
6	Q When was this?	6	Q Got you. Okay. When you applied for
7	A Prior to 2018 when he came to work	7	executive director, did you say in your application
8	there. I'm sorry. 2015 when he came to work	8	that your involvement with Carmack Health Care had
9	there.	9	ended in 2011?
10	Q And how were you aware of that?	10	A Not that I recall.
11	A She told me that.	11	Q If you had made that statement, would
12	Q Who did?	12	it have been untrue?
13	A Ms. Dunham.	13	A It would have been untrue.
14	Q Is she a friend of yours?	14	Q Okay. Did you ever hold any meetings
15	A Acquaintance, professional	15	16 using the Center facilities in support of private
16	acquaintance.	16	business enterprises without paying appropriate fees
17	Q You hesitated a little bit.	17	18 to the Center?
18	A Again, I say, hello, Ann. Hi, Duffy.	18	A I used it for Abingdon Rotary Club. I
19	I see her maybe twice a year. Ran into her at the	19	don't recall using it for any private entity, because
20	bank a few weeks ago.	20	I remember paying for using the Center a couple of
21	Q What is work abuse? That's very vague.	21	22 times. But it wasn't really related to Carmack
22	A Creating a very hostile work	22	Health Care in any way, so I don't recall that.
	270		272
1	environment, treating the employees unfair. That's	1	Q Okay. Now, we had talked about
2	purposefully antagonizing employees, setting them up	2	Dr. McGarry earlier and your relationship with him.
3	for failure and inability to do their job.	3	A Uh-huh, yes.
4	Q Okay. But why is that an OSIG	4	Q Now, you negotiated the energy building
5	matter?	5	lease, didn't you?
6	A You can call it abuse.	6	A The energy building lease was
7	Q Okay. Also, I wanted to ask you about	7	negotiated by Philip Hearl, who was the
8	the G license plate. What is your understanding of	8	representative, the attorney representative for the
9	what that, the origin of that license plate?	9	Foundation. But since his brother happened to be
10	A Stands for Grand Old Party.	10	Chairman of the Board, it was a conflict of interest.
11	Q Where do you reach that understanding?	11	We received notification, Mr. Matlock
12	How do you get that understanding?	12	received notification in July, both from the state
13	A Known that my entire life.	13	level and through Senator Carrico, and the Attorney
14	Q Okay. Have you seen, have you seen W	14	General's office, that the end of the year no more
15	plates?	15	state dollars, period, could be used at the Energy
16	A I have seen all kinds of letter	16	Center. We couldn't send our repairman down there,
17	plates.	17	mow the yard, scrape your driveway; it had to be
18	Q TK plates?	18	self-sufficient, had to have income.
19	A Sure, Governor's first names.	19	The Energy Center had been marketed for
20	Q Right. Isn't that a George Allen	20	three years. It had been marketed internationally.
21	plate? Isn't that G plate --	21	It had been marketed locally. It had been shown by
22	A The people that I know that have the G	22	the state numerous times. We had had people from

Transcript of William D. Carmack

69 (273 to 276)

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	273		275
1	Germany here. We had had people from Israel here.	1	well as creating energy for itself.
2	And the bottom line is that building wasn't built for	2	Now, all of that is very expensive to
3	a specific purpose; it was a shell. And it was a	3	maintain and very complicated to operate. Our
4	very expensive shell, and it was designed -- out of	4	agreements with TVA and BVU are 15 years long. And
5	15,000 square feet, there's only about 7,800 of it	5	so to rent that building commercially was very
6	that's usable space. The rest is atriums, open	6	complex. We couldn't separate -- for example, if we
7	lobbies, wide hallways, what I call common areas.	7	put two tenants in there, you couldn't put two
8	So our Board at the Foundation realized	8	electric meters. We couldn't break out the
9	they were going to have to have a tenant. I went to	9	utilities.
10	Evan Feinman, who was director of the Tobacco	10	So in the discussion of who and how do
11	Commission, and asked their permission for us to be	11	we rent this building, we decided that we would look
12	able to rent it commercially. That was granted. It	12	for one tenant. Then there was great discussion in
13	was talked about whether they would take it back,	13	what we would charge for rent, and we were all over
14	whether they should sell it. And Evan made the	14	the board. We had had a fair market evaluation done
15	decision, you may rent it commercially at this time,	15	in previous years. There were no comps to that
16	16 and so followed that up in writing.	16	building for an appraiser to use, nothing comparable
17	That went on to, back to the Foundation	17	to it, nothing comparable bought or sold in a 1,000
18	Board. We had two realtors on that Foundation Board.	18	mile radius to it.
19	We talked for weeks about rent value. That building	19	Q Did you rent it to McGarry?
20	20 is a state-of-the-art model of what can be done in	20	A Foundation Board rented it to
21	21 alternative energy construction. And it was built	21	Dr. McGarry.
22	22 for that purpose, which means it has redundant	22	Q Did they know he was a client of
	274		276
1	systems in it. If you, as a private landlord were	1	yours?
2	going to build it, you would put one heating system	2	A Yes.
3	in, not two or three.	3	Q That was clear and --
4	It was the first building that created	4	A Absolutely.
5	its own energy through solar panels, and we had	5	Q Divulged to all?
6	worked endlessly for two years with Bristol Virginia	6	A Absolutely.
7	Utilities and TVA, Tennessee Valley Authority, in	7	Q And he got an arm's length deal?
8	getting a net metering agreement, which means that	8	A No.
9	with the energy we produce, it's credited back to our	9	Q He got a sweet deal?
10	building. And so we are saving money.	10	A No. He took the lease that the --
11	And if we create enough energy, they	11	Brian Ely, attorney in Abingdon, was used to
12	pay us back what we over-created. And that is the	12	represent the Foundation because of Hearl conflict.
13	way that we paid for all of that energy equipment,	13	And the board set a rental value that has an
14	solar panels. We have a windmill, which primarily is	14	inflation clause each year. Tim had to invest a
15	just for symbolism, although it does power enough	15	certain amount of money in the building itself, which
16	energy to probably power a hair dryer. It has a	16	included real estate value, and they agreed to rent
17	underground deep well, geothermal heating and cooling	17	it to him and he signed the lease.
18	system. It has a green roof. It has swells. It has	18	Q Okay. Did you receive any additional,
19	no holding pond. It has every kind of feature you	19	any finders fee, any additional compensation of any
20	can think of, because the idea early on was to build	20	kind above and beyond your \$95,000 a year?
21	this energy center, energy being both synonymous with	21	A No, nothing.
22	creating synergy energy to bring jobs to the area, as	22	Q Okay.

Transcript of William D. Carmack

70 (277 to 280)

Conducted on March 12, 2019

	277		279
1 A Mr. Matlock thanked me for renting the 2 building. He said it was an objective of Senator 3 Carrico to have the building rented by year end, and 4 he appreciated my efforts.		1 were due to UVA by April the 15th. All employees 2 reviews were done except mine. Mine got done on June 3 the 29th, the day before raises went out.	
5 Q So he wasn't mean to you all the 6 time?		4 And he admitted in the office, he said, 5 I know you and I have problems; let me know if you 6 ever want to work on it. And I said, I'm ready and 7 willing any time. That was my employee review. 8 Could have been a constructive conversation. Could 9 have been an olive branch time, but it didn't turn 10 out that way.	
7 A Not every day.		11 Q Since leaving the Center in 2018, have 12 you sought any other employment anywhere?	
8 Q All right. Martha Gilliam -- and I 9 think her deposition is coming up -- and I know a 10 little bit about her. Tell me, did they have an 11 insurance agency?		13 A I completed a resume to send to the 14 Town Council of Abingdon when they had an anticipated 15 opening for Town Manager. And other than that, I 16 have just put my time and efforts into Financial 17 Health Solutions.	
12 A Marcia is partner in an insurance 13 agency.		18 Q And does your compensation remain the 19 same, the \$95,000, or has it changed?	
14 Q All right. And do you have any 15 business relationship with her?		20 A It remains the same.	
16 A I have personal policies and my clients 17 have policies with her.		21 Q	
18 Q Have you placed client policies with 19 her agency?		22	
20 A Let me think. Not that I can think of, 21 with one exception. This was before I ever went to 22 work at the Higher Ed Center. Her company has the	278		280
1 insurance policies on the surgery center, but that 2 was eleven, 12 years ago. And they are still there 3 at that agency, but they weren't placed with her.		1	
4 Q Did you divulge to any other 5 employees -- strike that.		2	
6 Did you divulge to anyone else that you 7 were filing your OSIG complaint against Matlock until 8 you had done so?		3	
9 A My wife.		4	
10 Q And that was the only person?		5	
11 A Yes.		6	
12 Q All right. And it's your testimony 13 that Mr. Matlock just would not discuss any 14 substantive business matter with you?		7 Q	
15 A That's correct.		8 A	
16 Q During the entire overlap between him 17 assuming the executive director's job and you leaving 18 employment there on January the 4th of 2018?		9 Q	
19 A We had several conversations that was 20 an attempt at what I would call to be constructive 21 conversations, but they never worked out that way.		10 A	
22 For example, my employee review, all employee reviews		11 Q	
		12	
		13	
		14 A	
		15 Q	
		16 A	
		17 Q	
		18 A	
		19 Q	
		20	
		21 A	
		22 Q	

Transcript of William D. Carmack

71 (281 to 284)

Conducted on March 12, 2019

	281		283
1		1	A
2		2	
3		3	
4	A	4	
5	Q	5	
6	A	6	
7	Q	7	
8		8	
9		9	
10	A	10	
11		11	
12	Q	12	
13		13	
14		14	
15	A	15	
16	Q	16	E
17	A	17	
18	Q	18	
19		19	
20	A	20	
21		21	
22		22	
	282		284
1	Q	1	
2		2	Q
3	A	3	
4	Q	4	
5	A	5	A
6		6	
7		7	
8		8	Q
9	Q	9	
10		10	
11		11	A
12	A	12	
13		13	Q
14		14	
15	Q	15	A
16		16	
17	A	17	Q
18	Q	18	MR. KINCER: I don't have any further
19		19	questions.
20	A	20	MS. HADDOX: While we are still on your
21	Q	21	time, let me finish my objection from earlier.
22		22	I think I got through 95. So Exhibits 96

Transcript of William D. Carmack

72 (285 to 288)

Conducted on March 12, 2019

<p>1 through 101 and 104 and 106 were not produced.</p> <p>2 Like the others, they are subject to</p> <p>3 production and numerous requests for</p> <p>4 production. Requests for production number</p> <p>5 two seeks the personal health insurance or</p> <p>6 other files of Carmack in any form and all</p> <p>7 other documents concerning or pertaining to</p> <p>8 his employment, including and not limited to</p> <p>9 his job duties, his performance, records of</p> <p>10 misconduct or violation of company rules,</p> <p>11 which is precise reason defendant allegedly</p> <p>12 used them today.</p> <p>13 In addition -- I won't go through all</p> <p>14 of the justification; you can read it</p> <p>15 yourself. Request for production five, six,</p> <p>16 seven, 19, 21, 23, would also cover the</p> <p>17 documents not produced.</p> <p>18 MR. KINCER: Okay.</p> <p>19 MS. HADDOX: That's all for the</p> <p>20 objection on the record.</p> <p>21 MR. GRIMES: And he'll read.</p> <p>22 MR. KINCER: All right.</p>	<p>285</p> <p>1 CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC</p> <p>2 I, MaryTheresa Ferris, Registered</p> <p>3 Professional Reporter, the officer before whom the</p> <p>4 foregoing proceedings were taken, do hereby certify</p> <p>5 that the foregoing transcript is a true and correct</p> <p>6 record of the proceedings; that said proceedings were</p> <p>7 taken by me stenographically and thereafter reduced</p> <p>8 to typewriting under my supervision; and that I am</p> <p>9 neither counsel for, related to, nor employed by any</p> <p>10 of the parties to this case and have no interest,</p> <p>11 financial or otherwise in its outcome.</p> <p>12 IN WITNESS WHEREOF, I have hereunto set my</p> <p>13 hand and affixed my notarial seal this 22nd day of</p> <p>14 March, 2019.</p> <p>15</p> <p>16 My Commission expires December 31, 2021</p> <p>Notary Registration Number 228190</p> <p>17</p> <p>18</p> <p>19 <i>MaryTheresa Ferris</i></p> <p>20 NOTARY PUBLIC IN AND FOR</p> <p>21 THE COMMONWEALTH OF VIRGINIA</p> <p>22</p>
<p>286</p> <p>1 THE COURT REPORTER: Okay. Can you all</p> <p>2 tell me what you need?</p> <p>3 MR. KINCER: I want the original, .pdf</p> <p>4 with exhibits.</p> <p>5 THE COURT REPORTER: How about you,</p> <p>6 Terry?</p> <p>7 MR. GRIMES: We want the usual. We</p> <p>8 want an E-tran only. We do not need exhibits.</p> <p>9 We have them.</p> <p>10 THE COURT REPORTER: When you say</p> <p>11 E-tran, do you mean ASCII? Or do you want the</p> <p>12 actual E-tran?</p> <p>13 MS. HADDOX: ASCII. The main thing is</p> <p>14 that we can convert it to text, which we can</p> <p>15 do with ASCII.</p> <p>16</p> <p>17 (The deposition concluded at 5:21 p.m.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p>	